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The Solicitors' Journal

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The Solicitors' Journal

VOL. LXXVIII. **Saturday, December 8, 1934.** No. 49

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Current Topics.

A Judicial Age Limit.

WHEN some time ago we touched on this subject it then possessed nothing more than an academic interest. Now, however, it has been lifted on to the plane of what may be called practical politics, for the Royal Commission, of which Lord PEEL has been nominated Chairman, and of which the Master of the Rolls is one of the members, has been directed to consider not only the state of business in the King's Bench Division, but likewise, *inter alia*, "the question of a retiring age for High Court Judges appointed in the future." Throughout the public service an age limit has been very generally imposed; county court judges are subject to it like so many others, and, *à priori*, it is difficult to see why such a rule should not be operative in the High Court where, if anywhere, the country expects to obtain the clearest intellects to grapple with the many difficult problems brought for solution. Arrived at three score years and ten, which the Psalmist regarded as the average limit of man's days upon earth, the mental powers of the generality of men is not so acute, and their powers of concentration are not so active as in their younger days, and this general law of nature does not exempt judicial persons from its inexorability. No doubt many exceptions may be pointed to where eminent judges continued and are continuing to exhibit remarkable vitality in the performance of their duties in court long past the years usually known as the allotted span, but these are exceptions, and the rule is intended to have its application to meet the case of the ordinary man. No hardship, it will be observed, will be caused to any of the present occupants of the High Court Bench, for the rule, if it ever finds favour, is to be operative only as to appointments in the future.

Inns of Court Readers.

THE election of the Master of the Rolls as Reader at the Inner Temple is a reminder of the existence of an ancient office at each of the Inns of Court out of which has gone all the importance which it was originally intended to subserve. At one time the Reader was that one of the Benchers selected to discourse on some branch of law for the instruction of students, but till a few years ago, when the late Mr. Justice M'CARDIE sought to restore something of its old importance, the practice of lecturing by the Bencher selected for the post had fallen into desuetude. At the Middle Temple, for example, we are told that the last Reader who publicly read was Sir WILLIAM WHITLOCKE, who read in the year 1684. In those early days there was no Council of Legal Education with its Readers to ensure that lectures on the various branches of law were available for intending members of the Bar, who, in the absence of such a course of instruction, were supposed to gather at least some fragments of knowledge from the prelections of the Readers. Some of the early readings were of considerable value, and one of them has come down to us in CALLIS's reading upon the Statute of Sewers, which even yet is consulted, although it was given at Gray's Inn as far back as 1622. As has been said, Mr. Justice MCCARDIE sought to revive the practice of reading, and one or two Readers have followed his example, and possibly the Master of the Rolls may, during his year of office, do the like, taking, it may be, as his subject a matter in which he has exhibited so much interest in recent years, that of the conservation of records.

Ribbon Development.

THE King's Speech at the opening of the present Session of Parliament intimated that legislation to deal with the evils of ribbon development would be introduced if time permitted. The volume of government business suggests that the qualifying factor is calculated to defeat any prospect of immediate measures being taken, and this view is confirmed by the Prime Minister's answers to questions put in the House of Commons on Monday. In reply to a question whether he would consider the immediate introduction of a Bill for the control of building development along the main thoroughfares of the country, the Prime Minister intimated that he did not propose to go beyond the terms of the King's Speech. Asked if he would not consider the introduction of a short measure to give power to the local authorities to prevent the evil, Mr. MACDONALD said that this was a question which the government were considering very carefully and very anxiously. He deprecated hurried legislation, however, in view of the intricacy of the problems involved. One of the reasons, he said, which inspired the government to take private members' time was to enable them to implement the pledges which they gave in the King's Speech, although this was only a provisional one. Personally he would like it very much if this were one of the first things that the government did. Meanwhile the evil goes on unchecked, and, indeed, an impetus is given to proceed rapidly with building schemes of this nature while they are yet within the law. At a meeting of road transport contractors, organised by the Metropolitan Area of the Road Haulage Association, and held at Portman Rooms, Baker-street, the same day, Lord HOWE, Chairman

of the British Road Federation, indicated that if the answer to the question in the House were unsatisfactory, he would himself take steps to table a Bill in the House of Lords to extend to all county councils the powers regarding ribbon development which are at present possessed by Surrey, Middlesex and Essex. But that, he said, was not sufficient. It might involve the purchase of land, and, while those three county councils were on the whole comparatively fortunately situated and had money to spend on such matters, there were other county councils which could not possibly find the money. In those cases the government must act. In our view when the contents of such a Bill come to be considered the councils of county boroughs should be invested with similar powers in view of the fact that their areas often extend well into the open country.

Road Safety.

THE Minister of Transport stated recently in the House of Commons that in order to expedite the abolition of level-crossings on important roads he was ready to make from the Road Fund grants of 75 per cent. of the cost of constructing bridges in their stead. It is to be hoped that the foregoing will provide sufficient inducement to the local highway authorities, with whom the initiation of any particular scheme rests, to eliminate these danger spots. In many cases the proximity of buildings and other local factors—to say nothing of the desirability of avoiding anything in the nature of a hump when the road is to be carried over the railway—will involve engineering works not of the simplest or cheapest character, but that suitable works ought to be undertaken will hardly be doubted by anyone acquainted with the toll of death and injury with which level-crossings have been associated. At a recent meeting of the Westminster City Council allusion was made to the difficulty experienced by drivers of modern low-built cars in seeing the nameplates of streets, and it was asked whether the works committee of the council could not consider suggestions that the nameplates be lowered to a position where they could be more easily seen. It was intimated that the question should be considered not only from the point of view of the motorist, but also from that of the pedestrian. The placing of nameplates at approximately eye-level has much to commend it from both these standpoints. The difficulty of detecting nameplates at their customary altitude from modern cars is certainly a source of danger as well as of congestion. Nameplates arranged to catch the light from lamp-posts and clearly visible by day would be of great service to road users.

Poor Persons Procedure.

IMPORTANT recommendations for the extension of the powers of the High Court to award certain costs to solicitors conducting litigation on behalf of poor persons are contained in the recently issued Report of the Poor Persons Procedure Committee, which was appointed in April, 1934, to consider certain suggestions contained in a memorandum submitted to the Rules Committee of the Supreme Court by The Law Society. There seems to be a widely held impression, according to the Report, that solicitors and counsel conducting poor persons work are remunerated out of the public funds. It cannot be too plainly understood that counsel receives no fee and the solicitor receives no remuneration, even to compensate him for office overhead charges and clerical work, but the latter only receives witnesses' expenses and similar disbursements. The General Council of the Bar had expressed a strong opinion against any change as far as counsel were concerned. Memoranda had also been received from various Provincial Law Societies. After examining arguments for and against the change, the Report states that it would not be safe to rest their recommendations merely on a slavish adherence to the otherwise salutary principle that remuneration of the legal profession should not depend upon results, especially as a poor persons procedure in which payment depends in the main on results is operating innocuously in Scotland. While a change would mean less scope for the speculative practitioner, the result would be the withdrawal, owing to the introduction of the element of profit, of a number of important firms, who undertake the work for the honour and dignity of the profession. It is suggested that r. 31B. of O. 16 (allowing out-of-pocket expenses, and, in special circumstances, profit costs and charges) should be altered so that the court or judge, if satisfied that a rich person is oppressing a poor person with a groundless claim, or that a defendant with great resources is using obstructive tactics in resisting a just claim by a poor person, should be empowered to award profit costs. Moreover a lump sum for profit costs might be awarded in cases of exceptional length and difficulty. An order as to profit costs, however, should not be enforced without the leave of the court or judge, which must refuse leave if satisfied that the party liable has not the means to pay the costs, and means should include insurance or other indemnity. It is also recommended that O. 16, r. 30 (i) be altered so that after the date of the granting of a certificate to a poor person, no settlement or discontinuance should take place, whether before or after the commencement of proceedings, without the leave of the court or judge, or where no court order is required, of the Committee. The payment of costs by poor persons, it is suggested, should be rigidly limited to cases where the certificate has been obtained by fraud or misrepresentation. The proposals in the Report are cautious, but if adopted they will represent a real step towards removing a substantial hardship.

Common Informers.

SINCE the appearance in our issue of 20th October (78 SOL. J. 743) of an article recommending the abolition of penal actions by common informers, a Bill for that purpose has been introduced into the House of Commons sponsored by twelve members. It will be remembered that the article referred to a number of offences, both serious and trivial, in respect of which such actions may be brought, and suggested that the time had arrived for all such matters to be brought more directly within the purview of the criminal law instead of being left to private proceedings by common informers. The preamble of the Bill states that its object is to abolish proceedings by way of penal actions when initiated by a common informer, and provides that after its passing no proceeding by way of penal action against any person or the property of any person when instituted by a common informer shall be entertained by any court. A "common informer" is defined to mean any person who sues in order to recover the statutory penalties, and nothing in the Bill is to be construed to take away, alter, or abridge the power of the Crown to recover penalties, fines or forfeitures in penal actions. If the common informer is to disappear into oblivion, none will regret the passing of a picturesque but somewhat unpleasant archaism.

The Organisation of Industry.

THE object of the Industrial Reorganisation (Enabling) Bill, which has been presented by Lord MELCHETT, is to provide for the self-government of industries by enabling a majority of producers, notwithstanding the opposition of a small minority, to introduce and cause to be enforced schemes for the reorganisation of the whole or part of that industry with the general object of promoting greater efficiency, eliminating wasteful competition, and of facilitating the production, manufacture and supply of the products of that industry. A scheme under the proposed Act would have to be submitted to a specially appointed National Industrial Council charged with the duty of ascertaining that it was in the public interest, that it related to an industry fit for independent organisation, provided for adequate consultation with interested parties, could be carried into effect without detriment to other industries and made suitable provision for expansion. Every

scheme would require a three-quarters vote of the persons voting at a poll of the industry concerned. A schedule sets out the industries to which the Act would apply. These are mining and quarrying, iron and steel, shipbuilding and constructional steel, non-ferrous, chemical, textile, mechanical engineering, glass and clay products, wood working, leather, rubber and asbestos, paper, oils and fats, foodstuffs, and, finally, tobacco. Moreover, by s. 15 the Board of Trade would be empowered by an Order to apply the Act to other industries. Agriculture, electricity and coal are not included, the industries relating thereto being provided for by existing legislation. It is not proposed at this stage to offer any comment upon this exceedingly comprehensive Bill other than to suggest that, while in some cases the elimination of competition and other considerations may force the hands of manufacturers to unite in order to save a particular industry, the possible effect of a general measure of this character (which invokes statutory power to do what should normally be done by agreement) alike upon the public, whose interests may not be furthered by the creation of virtual monopolies, and upon the small trader should be carefully scrutinised before it is allowed to pass into law.

Recent Cases.

In *Davies* v. *Richard Johnson and Nephew, Ltd.* (reported at p. 877 of this issue), an action by men employed on a piece-rate system of wages who alleged that the amount of their production had been diminished by being watched at their work was dismissed. Representatives of a firm employed by the company with a view to increasing efficiency took up positions near the operatives observing every movement and timing them by stop-watches. Assuming without deciding the point that there was an implied term in piece-work contracts that the employer would do nothing to hinder the workman earning maximum wages, LUXMOORE, J., said that there was also an implication in favour of the employer. The former implication could not be so wide as to prevent an employer seeing, whether by himself or his agent, that his workman was doing his work in a proper and efficient manner, or observing an employee's work so as to enable the employer to suggest improvements in the work, or substitute other work, or to enable him to make savings in the conduct of the work.

In *Corporation of London* v. *Lyons, Son & Co.* (*Fruit Brokers*), *Ltd.* (reported at p. 877 of this issue), LUXMOORE, J., granted a declaration that the defendants were entitled, in common with all other persons, firms and companies desiring to sell fruit, vegetables and other like commodities within Spitalfields Market, to conduct sales by auction within the market on payment of the customary tolls and subject to such bye-laws as might from time to time be made by the Corporation for the conduct of the market. The Corporation had sought an injunction to restrain the defendants from "disturbing" the market by holding auction sales on their premises or from describing their premises as within the market. Part of their premises was not, it was held, within the market.

In *Mitchell* v. *Alexander* (*The Times*, 1st December), damages were awarded in respect of a claim based on breach of contract or of a fiduciary duty owed by the defendant to the plaintiff. The facts are too long for treatment here, but attention should be drawn to a passage—quoted by the Lord Chief Justice—in the judgment of Vice-Chancellor TURNER in *Billage* v. *Southee*, 9 Hare 534, where the legal consequences of fiduciary relationships are pointed out. "No part of the jurisdiction of the court is more useful than that which it exercises in watching and controlling transactions between persons standing in a relationship of confidence to each other; and in my opinion this part of the jurisdiction of the court cannot be too freely applied, either as to the persons between whom, or the circumstances in which it is applied." That jurisdiction, it is then shown, is founded on the principle of correcting abuses of confidence.

Two Famous Lawyers.

THE deaths of Lord BUCKMASTER and Lord RIDDELL, which occurred on Wednesday, remove two distinguished figures, not only from the realm of law, but also from the various other fields of activity in which each concerned himself. Lord BUCKMASTER, who was born in 1861, was called to the Bar by the Middle Temple in 1884. He practised first on the common law side, joining the Oxford Circuit, but subsequently went over to Chancery work and joined Lincoln's Inn, where he was shortly to become one of the busiest juniors of his day. He took silk in 1902, attaching himself to the court of BUCKLEY, J. (afterwards Lord WRENBURY). He entered the House of Commons in 1906, representing the borough of Cambridge, and was returned for the Keighley Division of the West Riding in 1911, being appointed Solicitor-General in 1913. On the formation by Mr. ASQUITH of the first Coalition Government in 1915, he became Lord Chancellor—a position which he held until the fall of the Ministry some eighteen months later. In the course of his Chancellorship he nominated PETERSON and MCCARDIE, JJ., to be judges of the High Court, while the measure which enabled the Judicial Committee of the Privy Council to sit in two divisions was due to him. In 1925 Lord BUCKMASTER relinquished his judicial duties in the House of Lords and of the Judicial Committee in order to become President of The British Controlled Oilfields Limited. He resumed his work on the appellate tribunals about a year later. He was an early and constant supporter of the League of Nations. In his later years he became well known as an advocate of easier and simpler divorce machinery and was president of the council for co-ordinating the work of the various societies opposed to capital punishment. He was made a G.C.V.O. in 1930 and created a Viscount in 1933. Lord RIDDELL was born at Duns in 1865 and admitted a solicitor in 1885, when he joined the firm known later as Riddell, Vaizey & Smith. Before his retirement in 1903 he had applied himself assiduously to his profession and built up a large practice, in the course of which he became the legal representative in London of the Corporations of Cardiff and Huddersfield. Meanwhile, his first contact with journalism—acting as he did as legal agent in London for the *Western Mail*—had been made. He subsequently became chairman of the directors of the *News of the World*, developing the circulation of that paper from 30,000 to well over 3,000,000. He succeeded Sir GEORGE NEWNES as chairman and managing director of George Newnes, Ltd., and was also chairman of C. Arthur Pearson and of Newnes & Pearson and of Country Life, Ltd. During and after the war he acted as liaison officer between the Government departments and the newspapers. He was created a baronet in 1915 and a peer in 1920. By the general public he will, perhaps, be remembered chiefly for his "Diaries," wherein his impressions, given substantially as he recorded them, are of great value in view of his inside knowledge of men and events and his detached, impartial mind. The first "Lord Riddell's War Diary, 1914-1918," which was published in June, 1933, was followed in November of the same year by "Lord Riddell's Intimate Diary of the Peace Conference and After, 1918-1923." The third of the series, "More Pages from My Diary, 1908-1914," was published last month. Among his other works are "Law for the Million," "Some Things that Matter" and "More Things that Matter"—all displaying the same qualities which secured the instant success of his diary of the war. Lord RIDDELL was an honorary member of the British Medical Association, an honorary Fellow of the British College of Obstetricians and a past-president of the Medico-Legal Society. He will be affectionately remembered by all members of the legal profession who knew him and not least by those of us who are golfers and have had occasion to enjoy his hospitality at Walton Heath.

The Vicarious Liability of the Crown for the Torts of its Servants.

[Contributed.]

Following the excellent exposition of this constitutional principle on p. 811 of the issue of 17th November, it may be of interest to note the development of the doctrine in Scotland.

The position as regards the right of subjects to sue the Crown was very clearly and fully set out in *Macgregor* v. *The Lord Advocate (as representing the War Department) and Macfarlane* [1921] S.C. 847, where the decision of the judge of first instance (Lord Anderson) dismissing the action, in so far as it was laid against the Lord Advocate, was unanimously affirmed by the Second Division of the Court of Session.

In that case the plaintiff sued the defendants, conjunctly and severally, for damages in respect of personal injuries. The plaintiff was knocked down and severely injured by a motor car driven by the defendant, Robert Macfarlane, a driver in the Royal Army Service Corps, acting in the course of his duty as a British soldier.

The court held as regards torts, following English precedents, that a Government Department cannot be sued in an action claiming damages for a wrong, because each department of the State is a branch of the Government, the Government constitutionally is the Sovereign, and the Sovereign can do no wrong personally or by any of his ministers, cognisable in a court of law: *Feather*, 6 B. & S. 257; *Tobin*, 16 C.B. [N.S.] 310; *Canterbury*, 1 Phil. at p. 321.

It was further laid down that redress in England might be had by a subject against the Crown only where the claim was for implement of a contract or for damages in respect of breach of contract, and then the subject must proceed not by ordinary action but by petition of right: *Thomas* (1874), L.R. 10 Q.B. 31; *Windsor and Annapolis Railway Co.* (1886), 11 App. Cas. 607.

In delivering judgment, the Lord Justice Clerk said: "We have had no argument as to what was the effect of the union of the two Kingdoms in 1707, but it seems to me that the legislation that then took place almost necessarily resulted in this, that the position of the Crown must be the same on both sides of the border." The prior cases of *Smith* v. *The Lord Advocate* [1897] 25 R. 112, and *Wilson* v. *1st Edinburgh City Royal Garrison Artillery Volunteers* [1904] 7 F. 168, were expressly approved.

As regards the position of the Crown under statute law in Scotland, prior to the union in 1707 the rule was very different from that in England, for the Sovereign was bound equally with his subjects. Since the union, however, the construction of statutes has proceeded on the same lines as in England. The rule stated in the "Encyclopædia of Scots Law" is: "There is an antecedent improbability that the Crown is bound by any particular statute. To bind the Crown there must be express declaration or clear intention, but this requirement varies in stringency according to the subject-matter of statute." The question was discussed in *Somerville* v. *Lord Advocate*, 20 R. 1050, but the most illuminating statement of the law is that of Lord Dunedin, when Lord President, in *Magistrates of Edinburgh* v. *Lord Advocate* [1912] S.C. 1085: "While I do not doubt that there are certain provisions by which the Crown never would be bound unless that were clearly expressed—such, for instance, as the provisions of a taxing statute, or certain enactments with penal clauses adjected, as, for example, certain provisions of the Motor Car Act, and so on—yet when you come to a set of provisions in a statute having for its object the benefit of the public generally, there is not an antecedent unlikelihood that the Crown will consent to be bound, and this, I think, would be so in the case of regulations which are made to apply to all the land in a city. . . . While I think that is so, yet, all legislation being primarily for the subject and not for the Crown, you must in some way or other gather that the Crown means to be bound. In the present case there is, I think, no antecedent improbability of the Crown being bound, and I say that the want of antecedent improbability is turned into a certainty the other way when you find in a statute like this saving clauses put in which deal with the Crown's rights."

A further illustration of the fact that the Scottish courts are as jealous of the Royal prerogative as those of England is to be found in the fact that no inferior court in Scotland has jurisdiction over the Crown unless the Crown has consented to submit to the jurisdiction of the particular court: *Somerville* v. *Lord Advocate*, *cit. supra*.

Damages for Shortening of Life.

Can any damages be awarded to a plaintiff who proves that in consequence of the defendant's wrongful act or omission his life has been shortened, and if so what is the measure to be applied? The ordinary rule is that those damages are recoverable "which, so far as money can compensate, will give the injured party reparation for the wrongful act and for all the natural and direct consequences of the wrongful act" (Lord Dunedin, in *Admiralty Commissioners* v. *S.S. Susquehanna* [1926] A.C. at p. 661): see also *Hadley* v. *Baxendale*, 9 Ex. 341. It would seem at first sight as though such damage would be recoverable under this rule.

In the recent case of *Flint* v. *Lovell* (78 Sol. J. 860), a majority of the Court of Appeal upheld a judgment of Mr. Justice Acton, who, sitting without a jury, had awarded a plaintiff £4,400 damages, which included a sum in respect of the shortening of his life. The action was one in respect of personal injuries arising out of a motor accident, and liability was not disputed, the only question for the court being whether the sum in respect of the shortening of life was recoverable. The plaintiff was sixty-nine years of age at the date when the cause of action arose, and seventy at the date of the action. Before the accident the plaintiff had been in ordinary health, and might in the usual course be expected to live eight or nine years, subject to the average risks of human life. At the date of the trial, according to the unanimous testimony of the doctors, he was not expected to live long, probably something under a year.

Lord Justice Greer thought that they ought to accept the judge's finding that by reason of the accident, the plaintiff's future was reduced to pain and suffering for a year with the certainty of additional medical and nursing expenses, and the high probability that by reason of the injuries he would be dead within a year. His lordship said that the question was whether, having regard to the decision in *Admiralty Commissioners* v. *S.S. Amerika* [1917] A.C. 38, it was permissible in law for the plaintiff to claim damages in respect of a reasonable certainty that his life has been substantially shortened by the wrongful act of the defendant. It was his lordship's considered judgment that under the rules with regard to the measure of damages laid down in *Hadley* v. *Baxendale*, *supra*, the plaintiff's claim was one on which he ought to succeed.

As to the question of damages, his lordship said that it was not possible to say that the tests laid down in such cases as *Phillips* v. *London and South Western Railway Company*, 5 C.P.D., p. 280, applied to an appeal from a judge trying a case without a jury, because an appeal was a re-hearing by the court with regard to all the questions involved in the action, including the question what damages ought to be awarded. The court would be disinclined to reverse the finding of a trial judge with regard to the amount of damages, merely because they thought that if they had tried the case in the first instance they would have given a lesser sum. To justify reversing the trial judge on the question of the amount of the damages it would be necessary that the Court of Appea

should be convinced either that the judge acted on some wrong principle of law, or that the amount awarded was so high or so very small as to make it, in the judgment of the court, an entirely erroneous estimate of the damage to which the plaintiff was entitled. Both Lord Justice Greer and Lord Justice Slesser gave judgment dismissing the appeal with costs, but Lord Justice Roche said that in his opinion the damages were excessive and should be reduced to £3,000.

In *Admiralty Commissioners* v. *S.S. Amerika*, *supra*, the action was brought by the Commissioners against the owners of a steamship which had run into and sunk one of His Majesty's submarines. One of the items of damage claimed was the capitalised amount of the pensions payable by the plaintiffs to the relatives of the deceased men, and the claim with respect to that item was held to fail. One of the grounds of failure was the rule laid down by Lord Ellenborough in *Baker* v. *Bolton*, 1 Camp. 493, that "in a civil court the death of a human being cannot be complained of as an injury."

The origin of the rule was investigated by the Law Revision Committee in its interim report published on 29th March, 78 Sol. J. 231, where the *dictum* of Bowen, L.J., in *Finlay* v. *Chirney* was quoted, that the origin was "obscure and post classical." Sir Frederick Pollock, in his "Law of Torts," was also quoted (13th Ed., pp. 63, 64), where he said: "at one time it may have been justified by the vindictive and quasi-criminal character of suits for civil injuries," and added, "when the notion of vengeance has been put aside, and that of compensation substituted, the rule *actio personalis moritur cum persona* seems to be without reasonable ground."

The fact that the rule originated in the idea of vengeance for another's death is stressed also in the judgments of Lord Parker of Waddington and of Lord Sumner in *The Amerika*, *supra*. "Each of these judgments," said Lord Justice Greer in *Flint* v. *Lovell*, "contains an interesting account of how the rule arose out of the old law in which the killing of any subject of the Crown could only be put in suit by a prosecution for felony by the Crown, the only remedy for the relatives of the deceased being an appeal under which the killer, if he did not come to an arrangement with the relatives, could be subjected to certain cruel tests. It therefore clearly applied only to cases where damages were claimed in respect of the loss of another's life."

The question of the measure of such damages as these is one of great importance, but it does not necessarily concern the pleader, as they are of course part of the general damages. In *Phillips* v. *London and South Western Railway Company*, *supra*, the proper direction to a jury was considered with regard to the measure of the loss of professional income for two years, and the "accidents and vicissitudes of life" were emphasised as material considerations for a jury to take into account. In the same way the accidents and viccissitudes of life are material in calculating what would have been the chances of life to a normally healthy man in the absence of the accident of which complaint is made. Thus it would seem that the damages for shortening the life of a man of twenty years by fifty years is not ten times the amount to be awarded to a man of seventy whose life is shortened by five years.

Nevertheless, even when full allowance is made for such considerations as these, there can be no doubt that the damages for cutting short any life will be heavy, as regard must be had to the almost immeasurable value of life itself. What damages would be given where it is conclusively proved that a young life has been cut short is a matter on which it would be idle to speculate in the absence of specific circumstances, but it is clear that it can never be a proportionate multiple of the damages obtained in *Flint* v. *Lovell* for the same matter, but must be fair compensation on a reasonable view of the case.

Mr. Ernest Harry Grove, solicitor, of Halesowen, Worcestershire, left £12,160, with net personalty £3,883.

Company Law and Practice.

Voting—I.

I make no apology for returning once more to the all-important subject of voting, a subject which has attracted renewed attention recently as a result of the *Union Castle Case*, a case upon which I do not propose at the present time to comment, as it has yet to be dealt with upon the hearing of the action. All that can properly be said is that it is a case of considerable importance, and of great interest; and, perhaps, I may add, a case which is by no means so easy as many people seem to think, so far as I can judge from casual conversations here and there.

Let us begin at the beginning. What are the rights of members as to voting? Perhaps s. 115 (1) (*f*) of the Companies Act, 1929, is a convenient starting point. That sub-section lays it down that, in so far as the articles of association of the company do not make other provision in that behalf, in the case of a company originally having a share capital, every member shall have one vote in respect of each share or each ten pounds of stock held by him, and in any other case every member shall have one vote. I propose to confine myself exclusively to companies having a share capital.

But it cannot be very often that the articles of association of a company do not make provision as to voting rights, for Table A does so, in Art. 54, which is as follows:—

> "On a show of hands every member present in person shall have one vote. On a poll every member shall have one vote for each share of which he is the holder."

Thus it will be realised that s. 115 (1) (*f*) could only operate in the case of companies registered on or after the 1st November, 1929, if Art. 54 of Table A were excluded, and nothing put in its place; or, practically speaking, only if there had been a mistake. But the Table A clause is one that is very frequently excluded at the present time, even in the case of companies which do adopt Table A; and it has become quite a common practice to restrict the rights of voting of particular classes of shares.

It is usual in cases of this kind to leave the control of a company in the hands of the ordinary shareholders, and restrict the voting rights of preference shareholders. A very common restriction of this kind is to provide that the preference shareholders shall have no right of voting unless their preference dividend is some time in arrear, usually six months or a year. It is not uncommon to find that the preference shareholders are also given the right to vote on a resolution for winding up, or on any resolution directly or indirectly affecting the rights of their class. If their right to vote is to depend on whether or no their dividend is in arrear, it is advisable to provide in the articles that the dividend shall be deemed to be payable on a particular date or dates in every year, otherwise questions would arise as to when the dividend was in arrear.

It appears that under many forms of articles, a shareholder who has no right of voting at any particular meeting, has no right to receive notice of it, or to attend it (see *Re Mackenzie and Co.* [1916] 2 Ch. 450); but this by no means follows in the case of every form of articles, though it seems reasonable enough.

It is, however, advisable for the draftsman who pens an article containing a restriction on voting to make it clear in that article that, if the shareholder has no right to vote thereat, he shall have no right to receive notice of, or to attend, a general meeting. Just one other small point in connection with the drafting of such an article may be mentioned: make it clear that the restriction on voting which prevents a preference shareholder from voting, prevents him from voting in respect of his preference shares alone; he may be an ordinary shareholder, and it is not difficult inadvertently to draft an article in such a way as to suggest that a man who holds a preference share has no right of voting in respect

of all shares, preference or ordinary, held by him. A small point, because it is unlikely that any article would be so construed, unless the language to that effect was plain and unambiguous, but there is no harm in bearing it in mind.

It is clear that restrictions of the kind suggested above are good in law: see *Re Barrow Hæmatite Steel Co.*, 39 Ch. D. 582, and *Re Mackenzie & Co., supra.* Are they always advisable? I have not infrequently expressed the opinion in this column that the average shareholder is hardly distinguishable from the average, or perhaps I may say sub-average, sheep; it doesn't matter to him whether he has a vote or not, because he is not going to vote otherwise than as he is required to, until it is too late. A great many of the complaints against the existing state of the law relating to companies need never have arisen if only shareholders as a body could be induced to exercise such votes as they have in an intelligent manner.

Recently a suggestion has been made that the law on this point requires reconsideration; the point made being, as I gather, that shareholders should have equal voting rights. Thus, A, who has perhaps spent the best years of his life in developing a business from small beginnings, and has eventually decided to let the public participate in the financial advantages to be derived from it, may be debarred from retaining control, just as much as B, who plants on the public a not too healthy business, but wants to retain control, in order, so far as possible, to squeeze the orange till the very pips squeak. But, though there might be hard cases, the slogan of equality for shareholders is not an unattractive one, particularly to those of us who remember the maxim of equity which deals with equality. But is such a thing practicable, and why should you prohibit persons from subscribing for shares on whatever basis they think fit?

As to its practicability, what form would the necessary legislation take? Suppose you make some provision such as that contained in s. 115 (1) (*f*) compulsory? Whoever wants to have control will provide that the capital shall be £100,000 divided into 99,000 shares of £1 each and 240,000 shares of one penny each. Would it be feasible to provide that each member shall have a due proportion of votes corresponding to the aliquot part of the company's capital held by him? The sale of slide rules should go up by leaps and bounds if some such provision is made. The means of achieving the end of equality in voting rights is obviously difficult to work out. I leave it to my readers as an attractive form of mental exercise.

When considering this general question of voting rights do not forget that the restrictions on voting rights merely apply to general meetings of the company, and that it is not possible to alter the rights attached to any particular class of shares without the appropriate consent or resolution of that class, so that all the class with restricted voting rights loses is the right to interfere with the more general aspects of the company's affairs. The company cannot hold a general meeting and decide that the preferential dividend on the preference shares shall be reduced from 6 per cent. to 5 per cent. without the appropriate class consent.

I make that categorical statement, but it needs some little qualification. I apprehend that in law there is no reason why a class of shares should not be created, the rights attaching to which could at any time and from time to time be altered by the company in general meeting without the consent of the class, if that class of shares were expressly issued on those terms. Whether you would get anybody to subscribe for shares of that kind I do not know, but it seems doubtful.

So much for that aspect of the voting problem. Now, how is voting affected? There are only two generally recognised methods of voting: voting in person, and by proxy. Voting in person calls for little or no explanation or comment, but voting by proxy does require some notice. There is no common law right to vote by proxy (see the observations of Bowen, L.J., in *Harben* v. *Phillips*, 23 Ch. D. 14, at p. 35), and if one is to be conferred it must be found in the constitution of the company. Almost invariably articles do confer the right to vote by proxy. How strictly the rule is applied that votes must be given only in the manner prescribed by the constitution of the company is shown by the case of *McMillan* v. *Le Roi Mining Co.* [1906] 1 Ch. 331.

There a general meeting of the company was held at which a poll was duly demanded. The chairman directed that the poll should be taken by means of voting papers to be sent out to each of the members of the company, with a direction that they must be returned to the company's office on or before a particular day. Joyce, J., held that this was not a proper method of taking a poll under the articles of association of that company, for it was neither voting in person or by proxy. This result would follow under most articles of association, but it leads one to wonder whether some bold innovator who drafted a set of articles which provided in effect for the taking of a plebiscite of the members of the company in that manner whenever a poll was duly demanded would not be doing a great service.

At present a poll is a rather half-hearted affair. Generally it can be taken immediately, or after an interval; and it is, perhaps, more usual for the chairman to direct that it shall be taken after an interval. When that is so, the proper course is to give notice to all the shareholders of the appointed place and time, when they may appear and record their votes on the poll in person, or by their proxies. What is the objection to having it done by means of voting papers? At the moment it escapes me. If the poll is to be taken at a future time the unfortunate shareholders who have shown themselves sufficiently interested in the affairs of their own company to turn up at the original meeting find that they are under the painful necessity of attending once more on the poll, for they cannot then put in a proxy for the poll, at any rate unless the articles be of an exceptional kind. They cannot do so under an article requiring the lodgment of proxies at some time before "the meeting or adjourned meeting," for the poll is not an adjournment of the meeting: *Shaw* v. *Tati Concessions Ltd.* [1913] 1 Ch. 292. They cannot, of course, in any way record their vote for the poll to be held at a later date, at the meeting at which the poll is demanded, and, as I have said, they must attend again. No great hardship, perhaps, on a Londoner, but money is invested in London companies by the provinces, and the result seems absurd.

This kind of result is well calculated to "larn" a shareholder to display any sort of interest in the affairs of his company, and one feels that some attention from the draftsman or the Legislature would not come amiss.

A Conveyancer's Diary.

Clauses Preventing a Grantee Obtaining a Prescriptive Right to Light.

An important conveyancing point was raised in *Hapgood* v. *J. H. Martin & Son Ltd.*, reported in 178 L.T.J. 346. The facts, as stated in that report, were as follows:—

Land was conveyed to the plaintiff's predecessor in title by a conveyance dated the 30th December, 1907, at which time no house had been erected on the land conveyed. The conveyance was expressed not to include "any easements or implied easements of light and air over any other land now or formerly part of the A estate." A house was subsequently built on the land conveyed, and the land with the house was conveyed to the plaintiff by deed, dated the 17th January, 1934, "together with such rights, easements and appurtenances and subject to such reservations as are set out" in the conveyance of the 30th December, 1907. The defendants who had acquired land which was part of the A estate and adjoined the plaintiff's

property, erected a wall near a window of the plaintiff's house, which substantially interfered with the light coming thereto.

The plaintiff claimed damages on the ground that under s. 3 of the Prescription Act, 1832, she had acquired an easement of light, with which the defendant had interfered.

The defendants contended that, under the terms of the Conveyances of 1907 and 1934, the plaintiff was precluded from acquiring any easement of light over the A estate of which their land formed a part, and relied upon sub-ss. (2) and (4) of s. 62 of the L.P.A., 1934.

Sub-section (2) of s. 62 reads (omitting redundant words) :—

" A conveyance of land, having houses or other buildings thereon, shall be deemed to include and shall by virtue of this Act operate to convey with the land, houses or other buildings all . . . lights . . . easements rights and advantages, whatsoever, appertaining or reputed to appertain to the land, houses or other buildings conveyed or any of them."

Sub-section (4) enacts :—

" This section applies only if and so far as a contrary intention is not expressed in the conveyance, and has effect subject to the terms of the conveyance and to the provisions therein contained."

Now, the conveyance to the plaintiff contained (by reference to the conveyance of 1907) a provision that it did not include an easement of light over any part of the A estate, and the point in issue was whether under the terms of the two conveyances, although excluding the operation of s. 62 (2) of the Act, operated to prevent the plaintiff from setting up an easement of light which (but for the provisions of those conveyances) he would have been entitled to under the Prescription Act, 1832.

By s. 3 of the Prescription Act it is enacted that an easement of light is acquired by enjoyment for twenty years " unless it shall appear that the same was enjoyed by some consent or agreement expressly made or given for that purpose by deed or writing."

Horridge, J., held that the plaintiff had acquired a new easement of light under the Prescription Act, and that the terms of the two conveyances did not operate to exclude it.

This, of course, raises a point of importance to conveyancers. A provision in a conveyance may be a sufficient expression of a contrary intention to preclude sub-s. (4) of s. 62 of the L.P.A., 1925, from applying, but may not suffice to prevent the subsequent acquisition of an easement under the Prescription Act. The precise wording of any such provision, therefore, requires careful consideration.

The authorities provide a guide for the conveyancer.

In *Mitchell* v. *Cantrill* (1887), 37 Ch. D. 56, upon which the learned judge relied for his decision in *Hapgood* v. *Martin*, the facts were that a landowner granted a lease for 999 years to the plaintiff of a house and land with their appurtenances, except rights, if any, restricting the free use of any adjoining land or the conversion or appropriation at any time thereafter of such land for building or other purposes obstructive or otherwise. More than twenty years after this lease the subsequent lessee of an adjoining piece of land under the same landowner commenced to build on it in such a way as to obstruct the plaintiff's lights.

It was held that the exception of any right restricting the free user of the adjoining land did not operate as an agreement or consent on the part of the lessee that the owners of the adjoining land might always have a right to obstruct the access of light to the plaintiff's house within the exception in s. 3 of the Prescription Act, and therefore that the plaintiff had acquired an absolute prescriptive right to the light.

Cotton, L.J., after reading the clause in the conveyance of 1907 and s. 3 of the Prescription Act, said : " Now does this clause as I have read it bring it within that ? " (i.e., within s. 3 of the Prescription Act). " In my opinion it does not. It is not an agreement given for the purpose of the enjoyment of light, but it is simply an exception out of the grant made of appurtenances and rights so as to prevent the lessee from urging as against the landlord or anyone claiming through him, before a right had been obtained under the statute, that the landlord could not derogate from his own grant either by his building or granting to anyone else a right to build so as to interfere with the plaintiff's lights. That is the reasonable and, I think, the only meaning of that clause . . . But if independently of the grant the lessee has enjoyed the use of these windows for twenty years he will have the same rights as against the adjoining lessee as against a stranger." And later : " If you had an express proviso in the contract between the parties that notwithstanding the grant to the plaintiff, the landlord should be at liberty to build so as to interfere with the light, that would be another point, but that is not the express form of it."

It will be seen, therefore, that the express form of a provision of this kind is all important.

There are later cases in which the form was different and construed differently.

Haynes v. *King* [1893] 3 Ch. 439, was such a case. There a lease was granted which contained a declaration that " notwithstanding anything herein contained, the lessors shall have power without obtaining any consent from or making any compensation to the lessee to deal as they may think fit with any of the premises adjoining or contiguous to the hereditaments hereby demised and to erect or suffer to be erected on such adjoining or contiguous premises any buildings whatsoever, whether such buildings shall or shall not affect or diminish the light or air which may now or at any time during the term hereby granted be enjoyed by the lessee, or the tenants or occupiers of the hereditaments hereby demised."

It was held by North, J., that the declaration prevented the lessees from acquiring any right of light under s. 3 of the Prescription Act.

In *Foster* v. *Lyons & Co. Ltd.* [1927] 1 Ch. 219, there was a grant of a lease " reserving nevertheless unto the lessor and his lessees and tenants full right to build to any height upon the land adjoining the demised premises notwithstanding such building might obstruct any light on the land demised."

Eve, J., in the course of his judgment, said : " Can the effect of this grant be cut down to a period of twenty years or be limited, as the plaintiff contends, to a negation of the lessee's right under the lessor's implied covenant not to derogate ? I do not think it can. In *Mitchell* v. *Cantrill* Cotton, L.J., as I read his observations, was of opinion that if you could find a contract that the lessor, notwithstanding the grant, should be at liberty to build so as to obstruct this would not be confined to the negation of the lessor's obligation not to derogate, but would be an express agreement under the statute." His Lordship also referred to *Haynes* v. *King* and said : " The conclusion at which I have arrived is that the clause in this deed—though somewhat inaccurately described—is an agreement to the same effect as that in *Haynes* v. *King*, and that the enjoyment of light since the date of the lease has been of a permissive and determinable character."

These cases should be studied carefully in settling any provision of this kind, and if it is intended to prevent the grantee from obtaining a right under the Prescription Act, and not merely to negative the grantor's implied covenant not to derogate, should be framed so as to constitute an agreement that the light coming to the grantee's premises is to be enjoyed only until buildings obstructing it should be erected, that is to be with the consent of the grantor.

Sir Ernest Edward Wild, K.C., of Albert Hall Mansions, S.W., Recorder of London from 1922, left estate of the gross value of £32,961, with net personalty £26,299. He left a casket containing the Freedom of Norwich, conferred upon his father and himself, to his wife for life, and then to the Edward VI Grammar School, Norwich.

Landlord and Tenant Notebook.

Extra Rent on Breach of Covenant

Agricultural leases providing for increased rentals in the event of land being ploughed, or manure carried away, have in the past sometimes been construed as giving the tenant the right to plough the particular land, to remove hay from the farm, etc., on payment of the extra sum reserved. Cases illustrating this position were discussed in the "Notebook" of 9th May, 1931 (75 Sol. J. 305). More recent authorities on non-agricultural property show what line the landlord's draftsman should take if he wishes to create an option to enforce a prohibition or recover increased rent. The two leading cases on the subject are *Weston* v. *Managers of the Metropolitan Asylum District* (1882), 9 Q.B.D. 404, C.A., and *Hanbury* v. *Cundy* (1888), 58 L.T. 155. The method employed differed slightly, but an attempt to distinguish the earlier of the two authorities failed.

Weston v. *Managers of the Metropolitan Asylum District* was a claim to forfeit a lease for breach of a covenant and condition against carrying on offensive trades, etc. That is, the proviso for re-entry after dealing with non-payment of "the said yearly rent of £30 hereinbefore reserved, or the said further rent of £25, in case the same shall become payable," went on to cover, in general terms, breach of "any of the covenants hereinbefore contained on the part of the lessees." The first part of the proviso was, of course, not part of the plaintiff's case; the defendant relying on this and on the reddendum, which ran, "yielding and paying therefor during the said term unto the lessors the yearly rent of £30 by equal quarterly payments on" etc., and "and also yielding and paying unto the lessors the further yearly rent of £25 by like equal payments, in case any of the trades, occupations, or things hereinafter covenanted not to be carried on or done upon the said premises shall be carried on or done," contended that the forfeiture clause should be taken to apply only to a breach of covenant not otherwise dealt with.

The rule of construction applied was: see if there is anything in the stipulation as to increased rent cutting down the forfeiture clause. If not, it is for the lessor to say whether he will forfeit or not. The obligations created are not inconsistent, so the defence fails.

The scheme of the lease discussed in *Hanbury* v. *Cundy* (1888), 58 L.T. 155, was rather different. The term was forty years, and the reddendum named an annual rent of £300. There was a tenant's covenant to pay the rent, and another to purchase all malt liquors from the lessors. There was also the usual proviso for re-entry; but then followed a proviso and agreement that "so long as the lessee continues to purchase all porter, ale, stout and all other malt liquors . . . the lessors will accept . . . the yearly rent of £150 . . . for the payment of the yearly rent of £300 . . . in full satisfaction and in lieu of," etc. The proceedings taken when the tenant bought beer from suppliers other than his landlords were fought on the footing that if the covenant were absolute, the tenant had no defence. Stirling, J., granting an injunction, held that the meaning of the "qualifying" proviso was: "In order that your interest may coincide with your duty, I, the lessor, will take a smaller rent."

One cannot help feeling that both forms of lease are open to criticism. They are puzzling: the publican in the last case, if he took over without legal advice, may well have thought that by paying 100 per cent. more he could acquire the right to buy in the open market; the asylum managers who were the defendants in the other case may, possibly, not have had a conveyancer in their charge at the time. The devices adopted do not appeal to common sense; tenants do not expect landlords to give them something for nothing; what Stirling, J., called a "qualifying" proviso does not, strictly speaking, qualify at all; at least, it does not qualify the covenant, as the tenant wrongly thought it did. If the document were not under seal, the landlord in such a case could recover the full rent under any circumstances.

But it is also possible that these arrangements may prove disadvantageous to the covenantee. In this way: in *Weston* v. *Managers of the Metropolitan Asylum District* the court was concerned only with a claim for possession; in *Hanbury* v. *Cundy* only with a motion for an injunction; at all events, we are not told that damages were asked for in either action. But what if the breach occasioned loss exceeding the extra rent reserved? If I may, by way of illustration, indulge in a personal reminiscence: I was, many years ago, a pupil at a riding school, the proprietor of which informed his clientele, by means of a notice on a wall, that those who hired hacks and used them as hunters would be charged £1 extra when they returned. As a pupil, I was, in fact, more concerned with fears that my mount would mistake me for a hunter; but as a law student, interested in questions of equity as well as in equitation, I often wondered whether, if some hirer of a hack jumped hedges and gates and thereby depreciated the animal by, say, £20, the riding-master would be able to recover that amount or would be tied down to his modest £1. In leases of the kind discussed, there seems to be a similar risk. Stirling, J., considered the arrangement akin to the traditional jam round the powder: but, if both jam and powder be refused, is the patient to be deprived of other nourishment? In the case of an ordinary public-house tie, such as the one before him, a breach is soon discovered and can be restrained by injunction; but infringement of a covenant against user, which was the subject-matter of the proceedings in the other case discussed, may do an immense amount of harm before it is found out, and it seems to me that in such circumstances the tenant might rightly say: "I have used and am using the premises for purposes for which I promised not to use them. You can stop me; but whether you do or don't, you have contemplated the question of compensation and said that if I broke my promise so much more should the premises yield, and you are not entitled to add to that."

Our County Court Letter.

THE RECOVERY OF GOLF SUBSCRIPTIONS.

In *Worksop Golf Club Ltd.* v. *Black*, recently heard at Worksop County Court, the claim was for £4 4s. as an annual subscription according to the club rules. The defendant's case was that he had never had a rule book, but, having paid £6 6s. on joining, he only played three times. He then said he did not intend to continue, but did not put it in writing. His Honour Judge Hildyard, K.C., held that the defendant had not resigned and (being bound by the rules) was therefore liable for the amount claimed, with costs. In *Worksop Golf Club* v. *Burnett*, at the same court, the defendant contended that (*a*) the nominal value of one share in the company (£1 1s.) should be deducted from the amount claimed; (*b*) he had resigned by telephone and letter. It was pointed out for the plaintiffs that the telephone message was received two months after the subscription became due, and that the defendant was free to dispose of his share to the best advantage. Judgment was given for £4 4s. and costs.

TRAINING OF RACEHORSES.

In a recent case at Newton Abbot County Court (*Davies* v. *Sinclair*) the claim was for £12 5s., for the keep and training of a racehorse (Facing East) and the counter-claim was for £180 as damages for negligence. The plaintiff's case was that (1) the horse had been sent to him to train, but she broke down in one of her legs, after a gallop on Haldon racecourse, (2) a wound subsequently developed, which had been properly treated, and—if the plaintiff were held responsible for her

deterioration—no trainer could take horses in future, (3) the defendant had abandoned a previous High Court action for damages. The defendant's case was that (*a*) he had bought the mare for £80, as a four-year-old, for point-to-point racing and steeplechasing, (*b*) on her return from the plaintiff's stable, she had a dirty wound from the back of the knee to the fetlock, without which she could have been sold for £200, (*c*) the wound had been treated with irritant (or bandaged too tightly) and £50 had since been spent on treatment, (*d*) the earlier action was only abandoned because it was feared that any judgment against the plaintiff would remain unsatisfied. His Honour Judge Wethered gave judgment for the plaintiff, on the claim and counter-claim, with costs.

THE REMUNERATION OF ARCHITECTS.

In *Hipkiss* v. *George Hill and Son* (*Ledbury*) *Limited*, recently heard at Ledbury County Court, the claim was for £36 18s. for professional services, and the counter-claim was for £42 6s. for building work done. The plaintiff's case was that (1) the defendants had been parties to an arbitration, and he had advised them about the preparation of their case; (2) some of their plans had been rejected by the Ledbury Urban District Council, but had been accepted after he had interviewed the Ministry of Health. The defendants' case was that (*a*) the arbitration had been abandoned, and any work done by the plaintiff had been on the footing of friendship; (*b*) he was supposed to have retired, and the visit to the Ministry of Health had taken place while the plaintiff was on holiday in London; (*c*) the defendants had erected a garage for the plaintiff, but the cost had been set off against a set of plans, and they had not intended to make a further charge—until they received his bill, which came as a surprise. His Honour Judge Roope Reeve, K.C., observed that the documents supported the plaintiff's case, but his claim was excessive, and must be reduced by ten guineas. The counter-claim (being a mere counterblast) was dismissed—except with regard to items of 15s. for typing and 5s. for a chopping block. Judgment was therefore given for the plaintiff for £25 8s. and costs.

INTESTATE'S TITLE TO BUSINESS.

The advisability of making a will was illustrated in the recent case of *In re Watt*, at Liverpool County Court, in which the administrator applied for an order for the administration of the estate, and a declaration that the business of a marine store dealer was the property of the intestate. The applicant's case was that (1) he had married the deceased in 1898, but they had separated in 1922, when he gave her £40 and a horse and cart; (2) the respondents (the sons of the applicant and the deceased) had been employed by her at £3 a week each in the business, which was carried on in the wife's name (instead of the husband's) after the separation. The respondents' case was that (*a*) in 1922 the applicant had deserted his wife and five children, and neither the applicant nor the deceased had ever owned the business, which was started by the respondents; (*b*) the income tax returns were in the name of one of the respondents, and the applicant had merely appeared after the death to see what he could get from the business. His Honour Judge Dowdall, K.C., pointed out that the following were in the name of the intestate; the business licence, the car registration, the bank account and the insurance. An order was therefore made as asked, with costs out of the estate.

Obituary.

LORD BUCKMASTER.

The Right Honourable Stanley Owen, Viscount Buckmaster, P.C., G.C.V.O., Lord Chancellor from June, 1915, to December, 1916, an account of whose career appears on p. 867 of this issue, died at Porchester-terrace, on Wednesday, 5th December, at the age of seventy-three.

LORD RIDDELL.

The Right Honourable George Allardice Riddell, first Baron, who practised as a solicitor in London from 1888 until 1903, when he retired from that profession to enter the field of newspaper proprietorship, died at Tadworth on Wednesday, 5th December. His career is summarised in a short article entitled "Two Famous Lawyers," appearing at p. 867.

Sir ROBERT PERKS.

Sir Robert Perks, Bt., died at Kensington Palace-gardens on Friday, 30th November, at the age of eighty-five. He was educated at Kingswood School, Bath, and King's College, London, and later qualified as a solicitor. In 1876 he joined the late Sir Henry Fowler (Lord Wolverhampton) in establishing the firm of Messrs. Fowler, Perks & Co., in London. The partnership lasted until 1912, when Sir Robert left the firm, and joined the undertaking of Messrs. Macarthur, Perks & Co., contractors for dock and railway construction, of Ottawa and New York. He sat in Parliament as Liberal member for the Louth Division of Lincolnshire from 1892 until 1910. He was created a baronet in 1908.

Mr. C. BLAKE.

Mr. Charles Blake, solicitor, senior partner in the firm of Messrs. Cunliffe, Blake & Mossman, of Chancery-lane, W.C., died at Beare Green on Tuesday, 4th December. Mr. Blake was admitted a solicitor in 1905.

Mr. E. R. DAVIES.

Mr. Evan R. Davies, solicitor, head of the firm of Messrs. Evan Davies & Co., of Buckingham-gate, S.W., and Pwllheli, died on Sunday, 2nd December, at the age of sixty-three. Mr. Davies, who was admitted a solicitor in 1893, was appointed Town Clerk of Pwllheli in 1896. He resigned the town clerkship thirteen years ago, and for the past four years had been Mayor of Pwllheli.

Mr. H. S. HOLMES.

Mr. Herbert Stanley Holmes, solicitor, a member of the firm of Messrs. Sale & Co., of Manchester, died at Flixton on Wednesday, 28th November. Mr. Holmes was admitted a solicitor in 1893.

Mr. A. W. RAKE.

Mr. Aubrey William Rake, solicitor, of the firm of Messrs. Howe & Rake, of Chancery-lane, W.C., and of Philbeach-gardens, Kensington, died suddenly on Saturday, the 1st December, at the age of seventy-two. He was articled to Mr. Arthur Lucas, of Darlington, and was an "Honours" man, admitted in 1884. His firm has a history going back to the year 1805. Mr. Howe will carry on the business under the same name of "Howe & Rake."

Books Received.

Report of the Poor Persons Procedure Committee. 1934. London: H.M. Stationery Office. 3d. net.

Housing, House Production, Slum Clearance, etc., England and Wales. 1934. London: H.M. Stationery Office. 3d. net.

Politicians and the Public Service. Edited by A. R. Orage. 1934. Crown 8vo. pp. 99. London: George Allen & Unwin, Ltd. 1s. net.

The Juridical Review. Vol. XLVI, No. 4. December, 1934. Edinburgh: W. Green & Son, Ltd. 5s. net.

"*The Librarian*" *Series of Practical Manuals.* I—General Law. By N. C. W. Edge, Solicitor of the Supreme Court. 1934. Crown 8vo. pp. 84. Gravesend: Alex. J. Philip.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Death through Fellow Servant's Negligence.

Q. 3086. B is a foreman employed by a firm of nurserymen. C was a labourer in the same employment. B, with the consent of his employers, at times, used a gun belonging to his employers for the purpose of shooting rabbits, etc. Whilst C was engaged in weeding and was bending down B came up to him with the gun under his arm and spoke to him about his work. The gun was pointed at C. It suddenly went off, probably because a strong wind at the time might have caused B's coat to catch the trigger. C was not two yards away at the time of the occurrence. C died as the result of his injuries and at the inquest the coroner stated that B had been negligent. C has left a sister wholly dependent upon him. Should her claim against C's employers be at common law, under the Employers' Liability Act, 1880, or is she restricted to the Workmen's Compensation Act ?

A. C's employer would have a good defence at common law, viz., the doctrine of common employment, and the sister should not, therefore, sue at common law. The injury does not appear to come within the five cases specified in s. 1 of the Employers' Liability Act, 1880, nor does there appear to be any evidence of negligence. The occurrence was apparently due to inevitable accident, and the coroner's statement that B was negligent might be not supported in another court. C's sister is, therefore, restricted to her remedy under the Workmen's Compensation Acts.

Liability for Loss on Resale of Cow.

Q. 3087. A, a farmer, instructs B, an auctioneer, to sell a cow in the cattle market. The cow is knocked down to C for £27. Subsequently, C alleges the cow is not right and refuses to complete. B informs A that C will not take the cow unless A allows him to have it on trial for a week. A refuses the offer, but B says that unless A agrees then so far as he is concerned the sale is off. A would not agree and B told him to take the cow away, which B did and subsequently sold it at another market at a loss of £13. A contends that B is at fault in not forcing the first purchaser to complete, and that he therefore has a claim for damages, being the loss on the resale and additional expenses of the sale. This view would appear to be the correct one as the property would pass on the fall of the hammer, and the purchaser could have no claim except on the basis of breach of warranty. A, however, appears by his conduct to have acquiesced in the repudiation and thus have deprived himself of his remedy against C. The point arises as to whether A has any remedy against B for damages arising out of the breach of duty in accepting C's repudiation of the purchase. Your views are requested as to whether A's claim should be against C or B.

A. The contract between A and C was rescinded by mutual consent, and A has no remedy against C. As A ratified B's acceptance of C's repudiation of the contract, A also has no claim against B. There is an ambiguity in the first paragraph, but apparently A took the cow away (on the instructions of B, the auctioneer) and the cow was sold elsewhere at a loss of £13. If the cow was right, A will have difficulty in explaining his action in taking her away, and it appears that £14 was about her proper value. If A had insisted on B re-selling the cow, he might have had a claim against B, but (in the events that have happened) he cannot claim against either B or C.

Acceptance of Rent after Notice to Quit.

Q. 3088. We shall be glad if you can advise us (i) of the circumstances in which a landlord who has given notice to quit to his tenant, will be prejudiced if he accepts rent, and (ii) how, and in what form, a receipt for the rent can be given which will not invalidate the notice to quit. A reference to Halsbury's " Laws of England " or decided cases will much oblige.

A. The question of waiver of notice to quit depends on whether there is an implied agreement for a new tenancy. The acceptance of rent before the expiration of the notice to quit cannot be evidence of an implied agreement for a new tenancy (*Price* v. *Worwood* (1859), 28 L.J., Ex. 329), and a simple receipt can safely be given. The acceptance of rent covering any period even one day *after* the expiration of the notice is *primâ facie* evidence of waiver (*Gray* v. *Spyer* [1922] 2 Ch. 22). If the amount is paid *after* the expiration of the notice, but in respect of a period *not* extending beyond the termination of the notice, it is *advisable* to include in the receipt or in an accompanying letter a statement that the rent is accepted without prejudice to the notice to quit. This is a matter of expediency rather than of law, in order to show the tenant that the landlord has no intention of continuing the tenancy or creating a new one. As to acceptance of rent in respect of houses within the Rent Restriction Acts, see Act of 1920, s. 16 (3).

Liability for Funeral Expenses.

Q. 3089. A, a person in poor circumstances, died in 1923 intestate, possessed only of a small house which was in mortgage. B, a distant relative then on the spot, gave instructions to C, an undertaker who carried out the funeral. B did not pay, but C took no action against B, the latter being probably impecunious. The mortgagees entered into possession and repaid a considerable portion of the mortgage out of the rents. In 1934, wishing to sell the property, the mortgagees advertised for relatives of A, and my client, D, a son who had no knowledge of the previous circumstances beyond the fact of his mother's death, answered the advertisement. Administration has been granted to D who has sold the property and paid off the remainder of the mortgage. B has now sent an account to D for the costs of A's burial for a sum of over £24, being equal to one-sixth of the net estate, and threatens an action if not paid forthwith. Can D successfully set up any of the following defences : (*a*) That credit was given to B ; (*b*) that the debt is statute barred ; (*c*) any other ground ; and (*d*) (if liable) that the cost is excessive.

A. (*a*) The evidence is that credit was given to B, and D would have a reasonable chance of succeeding on that defence. (*b*) On the assumption that B was the debtor, the debt is statute-barred. (*c*) Ordinarily, if credit is given to anyone other than the personal representative, the latter is not liable to the undertaker, but is liable to repay the person who incurs a liability to the undertaker—in this case, B. D can therefore plead that he is not liable to repay B (if B pays) as the debt is not now recoverable by the undertaker from B. (*d*) If the above defences fail, it can be argued that the funeral should have been conducted at about half the alleged cost, which may include interest—although not chargeable.

To-day and Yesterday.

LEGAL CALENDAR.

3 DECEMBER.—On the 3rd December, 1850, a Temple tragedy was revealed when Mr. George Sloane, an eminent special pleader, of 6, Pump-court, was charged at the Guildhall with starving and cruelly beating a servant girl of eighteen. For two years she had been doing all the work without wages, and it was only through the intervention of the laundress and clerk of the gentlemen in the chambers below that she was finally rescued, reduced almost to a skeleton with ill-usage. In court she was given an easy chair and pillows. After the day's hearing, Sloane was chased by the mob. He was sent for trial and finally imprisoned.

4 DECEMBER.—On the 4th December, 1832, Mrs. Catherine Spiller, who practised medicine unofficially, found herself in the dock at the Old Bailey charged with the manslaughter of a child by applying certain dangerous plaisters to its head. The case seemed strong against her, but "a number of witnesses of the most respectable appearance and description" swore to her "superior skill in the healing art." This so impressed the jury that, without waiting for Mr. Baron Bolland to sum up, they acquitted the prisoner, her witnesses excitedly applauding the verdict.

5 DECEMBER.—Mr. Justice Browne managed to keep a judicial post during twenty of the most dangerous years in English history. He was raised to the Common Pleas by Henry VIII, and sat on throughout the reign of Edward VI. Although he witnessed the young King's deed diverting the succession from his sister, Mary took a tolerant view and retained his services. Elizabeth did not dismiss him, though, in 1559, he "did not argue at all, because he was so old that his senses were decayed and his voice could not be heard." He died on the 5th December, 1562.

6 DECEMBER.—The famous *Highwayman's Case*, when a highwayman sued his partner for an account, ended on the 6th December, 1729, when it was ordered that "whereas by an order of this Court, made the 29th day of November last, the tipstaff was ordered to take into his custody and bring into this court William White and William Wreathcock, the plaintiff's solicitors in this cause—reflecting upon the honour and dignity of this Court . . . this Court . . . doth fyne the said William White £50 and the said William Wreathcock £50 . . . and it is ordered by the Court that Jonathan Collins, Esq., whose hand appears to be set to the said Bill, do pay the defendant such costs as the Deputy shall tax."

7 DECEMBER.—In the Court of King's Bench, on the 7th December, 1830, Gray's Inn vindicated its independence of the Parish of St. Andrew, Holborn. There was a great mass of documentary evidence tracing the history of the Inn from the Manor of Portpool, and the ownership of the family of de Grey of Wilton, and showing how the chapel possessed an original ecclesiastical jurisdiction. The widow of a porter of the Inn swore that when he was buried at St. Andrew's, the double fee for a non-parishioner was charged. After a good deal of similar testimony, Lord Tenderden summed up and the jury found for the Inn.

8 DECEMBER.—At Sligo, on the 8th December, 1806, Thomas Martin and John Killerlane were indicted for that they "did unlawfully, wilfully and tumultuously rise and assemble and appear by night to the terror of His Majesty's subjects, and did assume the name and domination of Threshers and wear unusual badges, namely, white shirts over their cloaths and white bands over their hats." They were found guilty and sentenced to be imprisoned for six months and twice publicly whipped. The White Boys organisation was a powerful weapon against the Government.

9 DECEMBER.—On the 9th December, 1674, Lord Clarendon, Charles II's great Chancellor, died at Rouen, in exile, in his sixty-sixth year.

THE WEEK'S PERSONALITY.

In August, 1667, Charles II took the Great Seal from Lord Clarendon and shortly afterwards, in the face of the threats and persecutions of the House of Commons, the fallen Chancellor fled from England never to return till death brought his body back to a grave in Westminster Abbey. He travelled here and there in France, to Calais, to Rouen, to the baths at Bourbon, to Avignon, to Montpellier, to Moulins, always an aimless exile. At Evreux, in 1668, a company of English sailors, to revenge supposed grievances, raided his lodgings, plundered his baggage and assaulted him. The French Government was far from friendly, and though the Archbishop of Avignon and the Governor of Languedoc were kind, he lived in dread of official vexations. In his misfortunes, he turned to books, studied French and Italian, and completed and revised his "History of the Rebellion," chronicling those tremendous events in which he had played so great a part. In 1671 he petitioned to be allowed to return to England, but his prayer was not granted, and three years later he died at Rouen. As a statesman, his integrity and consistency were admirable; as a judge "he was a very good Chancellor, only a little too rough, but very impartial in the administration of justice."

LEGISLATIVE CONTROL.

On reading recently of a man being summoned at Old-street Police Court on a charge of having "exercised the trade or calling of a baker within ten miles of the Royal Exchange on Sunday, 18th November, by making or baking bread contrary to an Act of George IV," I was irresistibly reminded of a certain mayor of Yarmouth who, being zealous to dispense the laws wisely, dipped into the Statute Book and found a law against "firing a beacon or causing any beacon to be fired after nine of the clock at night." The poor man was rather muddle-headed, and he read the enactment "frying bacon or causing any bacon to be fried." Fortified by this authority, he went out next night upon the scent, and was directed by his nose to the carrier's house, where he found the man and his wife frying bacon, one holding the pan and the other turning the rashers. Caught in the act, they had nothing to say for themselves, and the mayor forthwith committed them to gaol without bail or mainprize. I only hope this little story will not give our legislators any ideas for the basis of a new enactment.

THE STATE OF THE KING'S BENCH.

Apparently there is to be "a formal inquiry into the situation in the King's Bench Division." To-day, when congestion of business is the prevailing problem there, it is strange to remember that just 100 years ago it was possible to write of the places of the common law judges as "seats of ermined ease," and to point out how "the tide of business has so rapidly receded from Westminster Hall and the assize towns as to cast a sickly hue over the countenance of judicial authority, and to suggest a train of dreary forebodings as to their ultimate fate." According to the Prime Minister, one of the matters for consideration will be the fixing of a compulsory retiring age for the judges. In this connection, however, one should not forget the dictum of old Chief Baron Pollock when the Liberals wanted to accelerate his resignation to make way for their Attorney-General. "I know I'm not the man I was," he said, "but I'm a good deal better than old Atherton." Judicial efficiency is rarely measurable in terms of birthdays.

Mr. Walter Ernest Puckering, solicitor, of Scarborough Clerk to the Yorkshire Fishery Board, left £17,880, with net personalty £1,188.

Notes of Cases.

Court of Appeal.

Dawson *v.* Hill.

Greer and Roche, L.JJ. 16th November, 1934.

PRACTICE—APPEAL FROM JUDGE IN CHAMBERS—JUDGE SITTING IN OPEN COURT—JURISDICTION—PRACTICE IN KING'S BENCH DIVISION AND CHANCERY DIVISION—SUPREME COURT OF JUDICATURE (CONSOLIDATION) ACT, 1925 (15 & 16 Geo. 5, c. 49), ss. 31 (3) and 62.

Interlocutory appeal from a decision of Talbot, J.

The plaintiff in an action brought in the King's Bench Division delivered a statement of claim, certain paragraphs of which the Master struck out. Talbot, J., in chambers, affirmed the Master's order. The plaintiff applied to him in court to discharge the order made by him in chambers. He refused on the ground that he had no jurisdiction.

GREER, L.J., dismissing the appeal, said that s. 62 of the Supreme Court of Judicature (Consolidation) Act, 1925, dealing with appeals from orders made by a judge of the High Court in chambers was expressed to be "subject to the provisions of this Act with respect to appeals in matters of practice and procedure," and referred to "the practice of the Division to which the cause or matter in which the order was made is assigned." Section 31 (3) provided that "in matters of practice and procedure every appeal from a judge should be to the Court of Appeal." This applied to a decision in chambers. As to the practice whereby judges of the Chancery Division corrected mistakes in chambers by bringing the matter into court, his lordship did not decide whether it was right or wrong.

COUNSEL: *W. H. Lewis.* (The appellant appeared in person.)

SOLICITOR: *Treasury Solicitor.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law]

In re Bennett: Bennett *v.* Bennett.

Lord Hanworth, M.R., Romer and Maugham, L.JJ. 20th and 21st November, 1934.

GIFT—MANUSCRIPT VOLUMES—DIARY—CONTINUED USE OF CURRENT VOLUME—GIFT NOT IMPEACHED.

Appeal from a decision of Clauson, J.

In 1921, Arnold Bennett, the testator, separated from his wife. The separation deed gave her, if she survived him, two-thirds of the capital balance of his estate and two-thirds of the royalties payable for the time being to his executors. Subsequently, he became on terms of intimacy with the defendant, D.C.B., by whom he had a child. In 1929, he assigned to her the performing rights of certain plays, though retaining a benefit which, in fact, prevented the assignment from holding good against the covenant in the deed. On the 18th December, 1928, a memorandum was signed by his secretary and butler witnessing the fact that on that date he had handed over to the defendant "as a free and absolute gift" forty-seven volumes of manuscripts which were enumerated and which included thirty-four volumes of his "Journal." Till the end of the year he continued to keep his diary in the current volume. Clauson, J., held that the manuscripts referred to in the memorandum formed part of his estate.

Lord HANWORTH, M.R., allowing the appeal, referred to *Jones* v. *Martin*, 5 Ves. 266, and *Fortescue* v. *Hannah*, 19 Ves. 66. It was for the plaintiff to show that what was done was illusory. This transaction must be considered on its own merits. The fact that the deceased continued to use the current volume of the "Journal" for thirteen days till the end of the year 1928 did not impeach the handing over of the forty-seven volumes in question.

COUNSEL: *Evershed*, K.C., and *Beebee*; *Sir William Jowitt*, K.C., *Vaisey*, K.C., and *Donald Cohen*; *E. Stamp.*

SOLICITORS: *Field, Roscoe & Co.*; *Hyman Isaacs, Lewis and Mills*; *Parker, Garrett & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Russian and English Bank *v.* Baring Brothers & Co. (No. 3.)

Slesser and Roche, L.JJ. 19th and 20th November, 1934.

COMPANY — FOREIGN CORPORATION — ESTABLISHED IN ENGLAND—DISSOLUTION UNDER FOREIGN LAW—WINDING UP—ACTION BY LIQUIDATOR IN ITS NAME—STAY OF PROCEEDINGS—COSTS PAYABLE BY SOLICITORS—COMPANIES ACT, 1929 (19 & 20, Geo. 5, c. 23), s. 190 (1).

Appeal from a decision of Clauson, J.

The plaintiff bank incorporated in Russia, in 1910, opened an English branch in 1915, complying with all the requirements relating to companies incorporated outside Great Britain. In 1918, it was dissolved under a decree of the Soviet Government. In 1921, it brought an action to recover certain moneys from the defendants. In January, 1932, Eve, J., made an order staying all proceedings, on the ground that the bank no longer existed ([1932] 1 Ch. 435; 76 SOL. J., 68). In March, 1932, Bennett, J., made a compulsory winding-up order (*In re Russian and English Bank* [1932] 1 Ch. 663; 76 SOL. J., 201). A liquidator was subsequently appointed. In December, 1933, Bennett, J., dismissed a motion to remove the order staying the action ([1934] 1 Ch. 276; 77 SOL. J. 913). Subsequently, the Registrar of Companies in Winding up made an order authorising the liquidator to bring an action in the bank's name, and this action was commenced. On an application, Clauson, J., made an order staying all proceedings and ordering the solicitors by whom the writ was issued to pay the defendants' costs.

SLESSER, L.J., dismissing the appeal, said that s. 190 (1) of the Companies Act, 1929, did not apply, as the plaintiff bank had no name and no existence. The liquidator of an unregistered society could not sue in a name the society had not got before winding up. The solicitors must pay the costs of the defendants, having issued a writ in the name of a non-existent client: *Simmons* v. *Liberal Opinion, Ltd.* [1911] 1 K.B. 966.

ROCHE, L.J., agreed.

COUNSEL: *Sir Albion Richardson*, K.C., and *H. W. Parry*; *Simonds*, K.C., and *Andrewes-Uthwatt.*

SOLICITORS: *F. M. Guedalla & Co.*; *Bischoff, Coxe, Bischoff & Thompson.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re Alexander Drew & Co., Limited.

Eve, J. 16th November, 1934.

COMPANY — WINDING UP — UNDISTRIBUTED PROFITS — SUR-TAX—APPORTIONMENT—DISTRIBUTION OF SURPLUS—FINANCE ACT, 1922, s. 21, Sched. I, para. (8)—FINANCE ACT, 1927, s. 31, sub-s. (4).

Summons.

The company of Alexander Drew & Co. Limited was incorporated in 1906 with a capital at the date of winding up of £220,000 in 80,000 preference and 140,000 ordinary shares of £1, all held by members of the Drew family and the trustees of the wills of two deceased members. After payment of all debts and preference interest and return of capital there was a surplus of £52,911 available for distribution among members. After payment thereout of dividends on the preference and ordinary shares amounting to £12,800 there was a net balance of £39,811 which was assessed by the Special Commissioners to sur-tax under s. 21 of the Finance Act, 1922, as amended by s. 31, sub-s. (4), of the Finance Act, 1927, under which

undistributed profits may be assessed to sur-tax upon a company to which s. 21 applies as it did in this case and shall be deemed to be the income of members for the purposes of sur-tax and apportioned amongst such members. The liquidator paid the sur-tax amounting to £9,129, and this summons was taken out to determine the question whether the sur-tax ought to be treated as a liability of the company payable before ascertaining the amount available for distribution or whether it ought to be brought into account against the amounts receivable by the preference and ordinary shares in respect of the income of which the sur-tax was assessed and in the proportions in which it was assessed. *Cur. adv. vult.*

EVE, J., after stating the facts, said that the second alternative was the proper one to adopt, the other would be to apply assets distributable among all the members, or a particular class of them, in payment of moneys charged upon and payable by other members, and that in his opinion would disregard the express provisions of para. 8 of the First Schedule to the Finance Act, 1922, that the apportionment was to be made in accordance with the respective interests of the members, and that the income apportioned to each member was for the purposes of sur-tax to represent his income from his interest in the company for the period.

COUNSEL: *D. L. Jenkins; C. R. R. Romer; J. H. Stamp.*

SOLICITORS: *Pritchard, Englefield & Co.*, for *Boote, Edgar and Co.*, Manchester; *Cunliffe, Blake & Mossman*, for *Tatham, Worthington & Co.*, Manchester.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Lord St. Davids *v.* Union Castle Mail Steamship Company, Ltd.

Clauson, J. 23rd November, 1934.

COMPANY—PREFERENCE SHAREHOLDERS—RIGHT TO VOTE—ALTERATION OF ARTICLES.

This was a motion by Lord St. Davids, who sued on behalf of himself and all other the ordinary stockholders of the Union-Castle Mail Steamship Co. Limited, except the defendants the Prudential Assurance Co. Limited, to restrain the Union-Castle Company and its directors from proceeding with a resolution which it was proposed to bring forward at a meeting of the company for which notice had been given for 27th November. The proposed resolution, it was said, would have the effect of altering the articles of association in the following effect, namely, whereas at present the preference shareholders have the right to vote only when the preference dividend is in arrear, or when their special preference rights are affected, it was now proposed (the preference dividend being in arrear and the preference shareholders therefore having the right of voting under the articles) to amend the articles by providing that at all times, whether the dividends were in arrear or not, the preference shareholders should have the right to vote. The preference shareholders, it was stated, could so outnumber the ordinary stockholders that they could pass any resolution, whether by an ordinary or extraordinary resolution.

CLAUSON, J., in giving judgment, said that the directors of the company took the view, and he had no doubt that they did so in the utmost good faith, that it was in the interest of the company that the present position as to voting, whereby the control was in the hands of the preference shareholders should be continued even if their arrears of dividend were paid up. Having regard to the terms of the articles of association, it was clear that, while the passing of the proposed resolution would no doubt alter the articles, it would not affect the relative rights of the two classes of holders, unless the holders of the ordinary stock approved that resolution by a class resolution. The solution of the problem had been made easier by the coming into operation of s. 61 of the Companies Act, 1929, which provided that even if a resolution were approved by a class meeting 15 per cent. of the class were entitled to apply to the court to prevent its being acted on. Here it was true to say that there was power to alter the articles, but he was asked to hold that rights could be put an end to by the passing of a resolution by a constituency in which those standing to gain by its passing far outnumbered those who opposed it. In his view the resolution so passed would be inoperative to alter the relative rights of the classes of shareholders, but at the same time the court was very chary of interfering with the rights of shareholders to discuss their affairs and to express their views by a resolution. He proposed to make an order which would recite that he was of opinion that the passing of the special resolution would not be effective to extend the voting of the preference shareholders beyond the limits imposed by the resolution of the company passed on 29th March, 1920, and stated in the prospectuses under which the shares were issued, unless such consent on behalf of the ordinary shareholders was given thereto, as provided by art. 74 of the articles of association, and he would direct that the company and its directors be restrained from acting on the terms of such resolution, if passed, unless and until the consent of the ordinary stockholders was given thereto, this injunction only to be operative until the hearing of the action or further order.

COUNSEL: *Gavin Simonds*, K.C., and *Gordon Brown; Spens*, K.C., and *Andrewes Uthwatt; Evershed*, K.C., and *H. S. G. Buckmaster; Fergus Morton*, K.C., and *J. B. Lindon*, and *Archer*, K.C., and *Cecil Turner.*

SOLICITORS: *Barnett, Tuson & Co.; Parker, Garrett & Co.; Ashurst, Morris, Crisp & Co.; Hutchison & Cuff.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Davies and Others *v.* Richard Johnson and Nephew, Limited.

Luxmoore, J. 27th, 28th and 29th November, 1934.

MASTER AND SERVANT—PIECE WORK—TIMING MEN AT WORK—EMPLOYER'S RIGHT.

The plaintiffs were wire drawers and rollers, working on a piece rate system of wages in the employment of the defendants who adopted a system of "human power measurement," involving timing the men at work. An observer stood in close proximity to them, taking with a stop-watch the time occupied in the various stages of the work. The plaintiffs alleged that this produced a state of nervous tension which distracted them from their work and resulted in reduction of output and loss of wages.

LUXMOORE, J., in giving judgment, said that, assuming that in a contract of employment on a piece-work basis, there was an implied term that the employer would not hinder the employee from earning the maximum amount, the employer could not be prevented from seeing that the workman did his work properly and efficiently. He might observe the work so as to suggest improvements or make savings in its conduct. Here there was no breach of any implied term in favour of the plaintiffs and the action failed.

COUNSEL: *Pritt*, K.C., and *A. Walmsley; Simonds*, K.C., and *W. M. Hunt; Sir William Jowitt*, K.C., and *H. Buckmaster.*

SOLICITORS: *Gibson & Weldon*, Agents for *Whittle, Robinson and Bailey*, of Manchester; *Gregory, Rowcliffe & Co.*, Agents for *Addleshaw, Sons & Latham*, of Manchester; *Grundy, Kershaw, Samson & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Corporation of London *v.* Lyons, Son & Co. (Fruit Brokers) Limited.

Luxmoore, J. 26th, 27th and 28th March; 10th, 11th, 12th, 13th, 17th and 18th April; and 30th November, 1934.

MARKET—NOT LIMITED BY METES AND BOUNDS—DISTURBANCE—AUCTIONS—PREMISES OUTSIDE THE MARKET—OBLIGATIONS OF MARKET OWNER—TOLLS.

The Corporation sought an injunction to restrain the company from "disturbing" its market at Spitalfields by

holding auctions at the offices occupied by them at 36 and 37, Steward-street, and from describing their premises as within the market. The company counter-claimed a declaration that they were entitled to sell by auction within the market and that their premises formed part thereof. The market was not limited by metes and bounds and the Corporation had statutory power to widen its extent. The Corporation had demanded payment of sums of money designated in its books as tolls from persons engaged in the sale of fruit and vegetables outside the main market.

LUXMOORE, J., in giving judgment, said that a market owner might allow sales everywhere within the market or fix a particular place or appropriate different places for the sales for different articles. The proper inference to be drawn from the levying of the tolls was that the Corporation agreed to treat the premises in respect of which they were made as within the market. Inasmuch as payments had been made only in respect of the ground floor of 36 and 37, Steward-street, and this was not occupied by the defendants, their part of the premises was not within the market. The question thus arose whether a rival market had been levied. In general, a person who auctioned market commodities within the prescribed distance of the market on a market day levied a rival market, but different considerations applied if there was a right to sell by auction within the market and facilities had been refused. The grantee of a market not limited by metes and bounds had an obligation to provide convenient accommodation for those desirous of buying and selling. If he did not do so, a person selling outside the market had a good defence to an action brought by the market owner to prevent such selling. The same defence was available if, while there was accommodation, the market owner denied all access to the market to a person who had made proper application. Here there was no appropriation of any part of the market to sales by auction. The Corporation could properly authorise these in premises included in the market whether under the original Charter or under the statutory authority to extend the market. The defendants could not be restrained from holding sales by auction at their premises or from adding "Spitalfields Market" to their postal address. There would, however, be a declaration that the premises occupied by the company were not within the market. There would also be a declaration that the company, in common with all other persons desiring to sell fruit and vegetables within the market, were entitled to conduct sales by auction on payment of the customary tolls.

COUNSEL: *Greene*, K.C., *Simonds*, K.C., and *W. M. Hunt*; *Gover*, K.C., *Thorp*, K.C., and *Heathcote-Williams*.

SOLICITORS: *A. F. I. Pickford*, the City Solicitor; *Edward Betteley, Smith & Stirling*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Budberg *v.* Jerwood and Ward.

Macnaghten, J. 19th November, 1934.

SALE OF GOODS—PEARL NECKLACE—FRAUD OF THIRD PARTY—OWNER'S CLAIM FOR RETURN—VENDOR NOT A MERCANTILE AGENT.

In this action Baroness Marie de Budberg claimed from Jerwood and Ward, dealers in precious stones, the return of a pearl necklace alleged to be of the value of £600. The plaintiff, a Russian lady, escaped from Russia in 1921, and brought the necklace with her. From 1921 to 1930 it remained in her possession. In the latter year she, being minded to sell it, entrusted it to Dr. Thadee de Wittchinsky, a Russian lawyer, who, since the revolution, had acted as legal adviser to Russian refugees in London. One of the questions in the action was on what terms the necklace had been so entrusted to him. The necklace remained in Dr. de Wittchinsky's possession until April, 1931, when he pawned it for £50. He had no authority to do so, and put the money into his own pocket, and did not tell the plaintiff about the matter. In November, 1931, he was introduced to the defendants, and after some negotiations he redeemed the necklace and sold it to the defendants for £95. That sum he also put into his own pocket. Thereafter he wrote a number of fraudulent letters to the plaintiff, in which he stated that the necklace was still in his possession and that he was trying to sell it. It was admitted that the defendants acted in perfect good faith and had no knowledge of Dr. de Wittchinsky's want of title. In October, 1932, Dr. de Wittchinsky died, the true facts were discovered, and the plaintiff began this action claiming the return of the necklace.

MACNAGHTEN, J., said that he accepted the evidence of the plaintiff that she had entrusted the necklace to Dr. de Wittchinsky as a friend only, and not as a matter of business, and merely that he might obtain offers and submit them to her. The defendants contended that Dr. de Wittchinsky had ostensible authority to sell it, and they based that contention on the length of time the necklace had been in Dr. de Wittchinsky's possession. But there was no principle of English law whereby mere possession of a chattel, for however long, conferred on the possessor the power to sell it. With regard to the defendants' third point, a mercantile agent was a person who, in the ordinary course of his business as such agent, had authority to sell goods. Now, Dr. de Wittchinsky was a doctor of laws, but it was suggested that he acted as a mercantile agent in this transaction, and that it was possible that a man could be a mercantile agent although he had only one customer. He (his lordship) accepted that proposition, but it was qualified to this extent, that the alleged agent must be acting in the particular transaction in a business capacity. Here it was clear that the relationship between the plaintiff and Dr. de Wittchinsky was not a business one. He was merely acting as a friend, there was no suggestion of remuneration, and in those circumstances the Factors Act did not apply. Judgment for the plaintiff for the return of the necklace.

COUNSEL: *Wallington*, K.C., and *S. Seuffert*, for the plaintiff; *Macaskie*, K.C., and *Humfrey Edmunds*, for the defendants.

SOLICITORS: *Harrington, Edwards & Cobban*; *Hyman Isaacs, Lewis & Mills*.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Davies (otherwise Mason) *v.* Davies.

Langton, J. 26th November, 1934.

NULLITY—WOMAN PETITIONER PLEADING OWN INCAPACITY—REPUDIATION BY MAN OF OBLIGATIONS OF THE MARRIAGE CONTRACT—DECREE.

This suit for nullity on the ground of incapacity raised the question as to whether a woman petitioner may ask for such relief notwithstanding that her own condition is the cause of the non-consummation of the marriage. The parties went through a ceremony of marriage in May, 1930. The marriage had not been consummated owing to the woman's incapacity and the man had repudiated the obligations of the marriage contract by leaving her and refusing to make a home or contribute to her maintenance. The suit was undefended.

Counsel for the petitioner referred to *G.* v. *G.*, otherwise *K.* (1908), 25 T.L.R. 328., C.A., and to *Halfen*, otherwise *Boddington* v. *Boddington* [1881] 6 P.D. 13. In an Irish case, *A.* v. *A.* (sued as B) (1887), 19 L.R. (Ir.) 403, the Court of Appeal in Ireland granted to a man petitioner a decree of nullity on the ground of his own infirmity where the respondent had herself repudiated the marriage contract.

LANGTON, J., pronounced a decree *nisi*, saying that he did so on the ground that the respondent had repudiated the marriage contract, although the petitioner was the real person

through whose misfortune it all happened. He (his lordship) was not, however, affirmatively laying it down that a suit for nullity could be brought merely on the ground of a petitioner's own incapacity when there had been no repudiation by the other spouse.

COUNSEL: *Hon. Victor Russell* for the petitioner.

SOLICITORS: *Gilbert Clarke & Gilbert.*

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Court of Criminal Appeal.

Rex *v.* James Wright.

Lord Hewart, C.J., Avory and Branson, JJ. 13th and 14th November, 1934.

CRIMINAL LAW—DAMAGING STATEMENT BY WITNESS AS TO CHARACTER—ISOLATED INSTANCE—NO SUBSTANTIAL MISCARRIAGE OF JUSTICE.

This was the appeal against conviction and sentence of James Wright, who was convicted on the 18th October, 1934, at the Central Criminal Court, of stealing £293 by means of a trick, commonly known as the confidence trick, from an American subject, named Bussey. That offence was alleged to have been committed in May, 1933. Wright was sentenced by the Recorder of London to three years' penal servitude. The principal witness for the Crown at the trial, when being examined in chief as to his identification of the appellant, said: "I identified him in the rogues' gallery" at Scotland Yard.

AVORY, J., in giving the judgment of the court, said that there was no question that such a statement as that made by the witness would convey to the jury either that the appellant had been previously convicted or at least was a person of bad character. Complaint was made that the Recorder made no reference to that unfortunate statement—or, rather the complaint was that the Recorder did not warn the jury against being influenced by that statement. The court had come to the conclusion that in a case of this kind, where by accident an observation of this nature had been made, it might very well be that the best course for all parties—prosecution, defence and trial judge—to pursue was to abstain from making any reference to it at all. The making of any reference to the matter might only tend to impress it more strongly in the minds of the jury. The court thought that this case should be dealt with on the lines of *Williams and Woodley* (1920), 14 Cr. App. R. 135, where Lord Reading, C.J., said, at p. 137: "It is sufficient to say that here is a case of serious irregularity, and that applying the proviso of section 4 of the Criminal Appeal Act, 1907, we have come to the conclusion on the facts of this case, and having regard to the evidence given at the trial, that without this irregularity, and assuming that there were no notes of the previous convictions of the appellants on the abstract supplied to the jury, they must inevitably have arrived at the same verdict of guilty against the appellants." The court adopted those words as applying to the present case, and for those reasons were of opinion that this appeal must be dismissed. They saw no grounds for interfering with the sentence.

COUNSEL: *Roland Oliver*, K.C., and *J. F. Eastwood*, for the appellant; *G. D. Roberts*, for the Crown.

SOLICITORS: *Conway (Philip), Thomas & Co.; Wontner and Sons.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

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CENTRAL CRIMINAL COURT: DECEMBER CALENDAR.

According to a recent announcement there are fifty-five persons for trial or sentence at the December session of the Central Criminal Court. Among the matters to be dealt with are one charge of wounding with attempt to murder, seven of wounding or causing grevous bodily harm, one of robbery with violence, four of bigamy, five of conspiracy to defraud, two of false pretences, seven of stealing or attempting to steal, two of forging and uttering, one of falsification of accounts, four of breaking and entering, one of fraudulent conversion, and one of defamatory libel. The session opened on Tuesday.

Parliamentary News.

Progress of Bills.

House of Lords.

Gin Traps (Prohibition) Bill.
Read First Time. [5th December.
Juries (Amendment) Bill.
Read First Time. [5th December.
Matrimonial Causes (Amended Procedure) Bill.
Read First Time. [5th December.
Matrimonial Causes (Procedure in Suits for Nullity) Bill.
Read First Time. [5th December.
Supreme Court of Judicature (Amendment) Bill.
Read First Time. [5th December.

House of Commons.

Depressed Areas (Development and Improvement) Bill.
Read Second Time. [3rd December.
Educational Endowments (Scotland) Bill.
Read Second Time. [30th November.
Electricity (Supply) Bill.
In Committee. [5th December.
Ministry of Health Provisional Order (Cumberland and Lancaster) Bill.
Read Second Time. [5th December.
Ministry of Health Provisional Order (Gloucester and Warwick) Bill.
Read Second Time. [5th December.
Ministry of Health Provisional Order (Holland and Kesteven) Bill.
Read Second Time. [5th December.
Ministry of Health Provisional Order (Holland and Lindsey) Bill.
Read Second Time. [5th December.
Ministry of Health Provisional Order (Leicester and Warwick) Bill.
Read Second Time. [5th December.
Sea Fisheries Provisional Order Bill.
Read First Time. [3rd December.

Questions to Ministers.

DECONTROL (FALSE DECLARATIONS).

Mr. G. R. Strauss asked the Minister of Health whether local authorities have made any extensive use of their powers under s. 2 (6) of the Rent Act, 1932, to prosecute persons who knowingly make false declarations calculated to lead to the belief that a house of the rateable value of £20 in the Metropolitan police district and £13 elsewhere is decontrolled; and whether, in view of the fact that the prescribed form of registration for the decontrol of a house requires no statement of fact, he will take steps to stop the illegal registration of decontrol which is now proceeding on an extensive scale throughout the country.

Sir H. Young: With regard to the first part of the question, no returns are made to me of the number of prosecutions of the kind referred to by the hon. Member. With regard to the second part of the question, the register is a register of claims that houses were decontrolled before 18th July, 1933, and does not in any way affect the question whether, in fact, a particular house on the register is, or is not, decontrolled. Further, all such claims had to be made by 18th October, 1933, and registration can now be effected only with the express consent of the county court. [29th November.

JURORS.

Miss Ward (*for* Lieut.-Colonel Cruddas) asked the Attorney-General whether he was aware of the hardship incurred by persons who are summoned as jurors, both in London and at assizes, and sometimes kept in attendance for weeks before they are needed; and will he consider instituting an inquiry into the steps which might be taken to ensure that jurors are not summoned till they are wanted.

Lieut.-Colonel Sir A. Lambert Ward (Lord of the Treasury): I have been asked to reply. Careful inquiry has been made both in London and on the circuits, and no case has been found of a person summoned as a juror being kept in attendance for weeks before he is wanted. It is not possible to ensure that jurors shall not be kept in attendance before they are empanelled as the exact length of cases cannot be foreseen, and the necessity for empanelling a fresh jury in the event of the disagreement of a jury causes additional uncertainty. Care is taken to obviate, so far as possible, the inconvenience caused to those who render this necessary public service, and the matter is being further reviewed in order to ensure that no unnecessary inconvenience is caused. [3rd December.

LOTTERIES AND SWEEPSTAKES.

Mr. Pike (*for* Mr. North) asked the Postmaster-General whether, in view of the fact that at the present time it is provided under the inland post warrants of 1923 to 1926 that no postal packet containing a ticket of any kind relating to a lottery at home or abroad may be transmitted by post and that, under the Betting and Lotteries Act recently placed on the Statute Book, certain lotteries have now been established as legal lotteries, he will consider the desirability of taking early steps to procure the amendment of the provision in question, in order that legal lottery tickets may now be transmitted by post.

The Assistant Postmaster-General (Sir Ernest Bennett): Section 23 of the new Betting and Lotteries Act, which exempts small lotteries incidental to certain entertainments, contains a provision that tickets in such lotteries shall not be sold except on the premises on which the entertainment takes place, and no question of the use of the post therefore arises. Again, s. 24, which exempts certain private lotteries, specifically provides that no tickets in such lotteries shall be sent through the post. The question of amending the Post Office regulations does not therefore arise. [4th December.

KING'S BENCH DIVISION (ROYAL COMMISSION).

Mr. Holford Knight asked the Home Secretary whether the annual statutory reports of His Majesty's judges relative to the work of the High Court will be printed for the assistance and guidance of the Royal Commission on the King's Bench Division.

Sir J. Gilmour: Any reports made by the Council of Judges under s. 210 of the Supreme Court of Judicature (Consolidation) Act, 1925, will be available for the information of the Royal Commission in such form as they may desire. [5th December.

The Law Society.

FINAL EXAMINATION.

The following Candidates (whose names are in alphabetical order) were successful at the Final Examination held on the 5th and 6th November, 1934:—

Trudie Martha Davies Adams, B.A. Liverpool, Paul Anthony Glynne Aldington, Douglas Hubert Andrew, B.A. London, Cecil Isidore Angel, Alfred William Anstey, B.A. Cantab., David Antony Irving Ardizzone, James Priestley Aspden, LL.B. Manchester, Thomas Henry Attwater, Henry Sykes Balls, John Samuel Barnes, LL.B. London, Noel Worsley Barnes, Alfred Patten Baskerville, Norman Harry Beach, Stephen Gerald Beaumont, B.A., B.C.L. Oxon, Arthur Campbell Beevor, B.A. Cantab., Arthur Malcolm Bell, LL.B. London, Joseph Benjamin, LL.B. London, Gerald Austin Bernhard, Charles Robert Beveridge, B.A. Cantab., Trevor Bertram Birkett, Ronald Charles Wilson Blackburn, Henry Taylor Blakeston, David Blank, LL.B. Manchester, Abraham Bluestein, Thomas Cottingham Boardman, Percy Wilfred Theodosius Boughton-Leigh, B.A. Cantab., Alan John Brown, B.A. Cantab., Thomas Eric Brown, LL.M. Sheffield, Thomas Heseltine Brown, John Cecil Bullock, B.A. Cantab., Donovan John Whistler Bundock, Edgar Thomas Spry Byass, Eveline Saumarez Cameron, Andrew Henry Knight Campbell, Richard Camrass, LL.B. Leeds, Francis Edward Carpenter, Nigel Jasper Chambers, Joyce Kathleen Chandler, Gerald Frederick Chantler, Cyril Henry Chapman, Douglas Tamplin Christians, Reginald John Horby Cleaver, Mary Clinton, B.A. Oxon, Walter Arnold Close, Arthur Cobby, Mason George Cockshott, B.A. Cantab., Theobald Maurice Cohen, Stephen Justice Constance, Perceval Edward Gott Coode, Alexander Brian Couch, Alfred William Noel Cowper, B.A. Cantab., Frederick Lister Croft, LL.B. Liverpool, Kenneth James Dalby, LL.B. Leeds, George Davies, Katherine Mary Davies, Willoughby Nevil Davis, B.A. Cantab., Kenneth Dickson Dickie, Thomas Russell Dobell, B.A. Cantab., Bertram Edward Dreyfus, B.A. Cantab., Joseph Dubovie, Roy Mainwaring Dunstan, Dudley Vavasour Durell, B.A. Cantab., Albert Richard Eaton, Bernard Edwards, Harold Warwick Edwards, George Hugh Cavendish Emmet, Frank Entwistle, Thomas Samuel Evans, Richard Frederick Fairbairn, B.A. Cantab., Kenneth Fairbrother, Hugh William Farmar, B.A. Oxon, Charles Leonard Fawcett, B.A. Oxon, Robinson Ferguson, Cyril Ernest Flack, John Mackintosh Foot, B.A. Oxon, Edward Fowler, LL.B. London, James Gourlay Freeland, B.L. Glasgow, George Michael Game, James Gaukroger, Sydney William Glenister, John Herman Godden, Harold Graham Godsall, B.A. Cantab., Denis Ronald Good, Stephen Morton Gore, LL.B. Birmingham, John Harold Gowing, Joseph Allen Hallsworth, LL.B,

Manchester, Charles Henry Hammer, M.A. Cantab., Aslan Lionel Hamwee, B.A. Oxon, B.A. Manchester, Laurence Aylmer Penn Hardy, Beverley Thelwall Harrison, B.A. Cantab., Cyril Charles Harrison, Mervyn John Hiam Harrison, Geoffrey Paul Heather, Peter Ralph Quixano Henriques, B.A. Oxon, Anthony Raby Hieatt, Gerald Wilson Hill, B.A. Oxon, John Michael Hillman, Kenneth Graham Holden, B.A. Cantab., Neville Stanley Howarth, LL.B. Manchester, Joseph Edward Hudson, Henry Thomas Hughes, Ieuan Ap Griffith Hughes, Kenneth Oliver George Huntley, LL.B. Liverpool, Harold Arthur Huré, Stanley Bethell Ince, Anne Menna James, LL.B. Wales, Richard Adrian Smith Jerome, B.A. Oxon, David Brunel Martin Jones, B.A., LL.B. Cantab., Thomas Jones, Jessie Margaret Jordan, Allan Frederick Judd, Ronald Kenelm Kerr, B.A. Cantab., William Lock Kidston, Herbert William Larkin, Thomas Alfred Last, LL.B. Leeds, John Waldemar Lawrence, B.A. Oxon, Philip Charles Fenner Lawton, LL.B. London, Lionel Lazarus, Leslie John Leathers, Sidney Lewis Lesser, Benjamin Roy Lewis, LL.B. Leeds, Frederick Ronald Lewis-Heath, Philip Edwin Lissant, B.A., B.C.L. Oxon, William Edwin Everard Lockley, B.A. Cantab., Thomas Magnay, Bernard William Main, LL.B. London, Gabriel Maria Malzer, Sidney Zebulun Manches, LL.B. London, Eric Gordon Marshall, Albert Wyatt Martin, Walter Sydney Mason, Derek Hamilton Mays-Smith, B.A. Cantab., Ronald Leslie Meech, Henry Miller, B.A. London, Kenneth Louis Miller, B.A. Cantab., Sylvia Mary Mitchell, Reginald Currer Moorhouse, Charles Morley, Derek Noel Muskett, Geoffrey Phillips Newton, Paul Douglas Archibald Niekirk, Adam Henry Williams Petre Norton, B.A. Oxon, John Walter Notcutt, George John Paddock, Humphrey Mackworth Paul, B.A. Oxon, Jack Arnold Phillips, Edward Hamilton Comyn Platt, B.A. Oxon, Cyril Ernest Charles Reginald Platten, Ernest Leslie Proud, B.A. Cantab., Victor Reuben Pugsley, Roderick Hamilton Purves, Bernard Ray, John Reuben Rayment, Leonard Humphrey Razzall, Brian Voase Rhodes, David Rice, LL.B. Manchester, John Richardson, B.A. Oxon, Ronald Hugo Richardson, LL.B. Leeds, Leonard Eddington Rickards, B.A. London, Idris Roberts (of Rhyl), George Stogdale Robinson, Michael James Rogers, B.A. Cantab., Frederick John Rooth, Gordon Pearse Russell, B.A. Cantab., Nigel Ryland, B.A. Cantab., George Christopher Sadler, Gerald Samuels, Barham Savory, John Duprey Schooling, LL.B. Sheffield, Roger Charles Friend Serpell, B.A. Oxon, Patrick William Setchell, Hyman Shanovitch, LL.B. London, Ambrose Frederick Shepherd, Donald Harrop Shuttleworth, B.C.L. Oxon, LL.B. Birmingham, Ronald Maurice Simons, Graham Thomas Sidney Sirrell, Godfrey Higginson Skrine, B.A. Oxon, Derrick Sloan, Alan Gordon Smith, M.A. Edinburgh, Francis George Hazell Smith, Frederick Smith, B.A. London, Reginald William Arthur Smith, Walter Mervyn Wadham Smith, Mervyn Hardinge Douglas Snape, David Arnold Solomon, LL.B. Liverpool, Elaine Margaret Stannard, Conway William Stidston-Broadbent, Desmond Harold Maxwell Stimson, James Storey, Norman Lewis Swain, Albert Edward Swales, George Symonds, LL.B. Leeds, Geoffrey Gordon Taylor, George Taylor, David Myrddin Thomas, Charles Vivian Thornley, B.A., LL.B. Cantab., Leonard Tobin, Edward Noel Hume Townshend, Matthew Myer Trackman, Gerald William Turnbull, B.A., LL.B. Cantab., Philip Turner, LL.B. London, Sidney James Vardon, B.A. Oxon, John Roderick Waite, Stanley Ronald Wakefield, Alfred Edward Flint Walker, LL.B. London, Brian Marfrey Walter, Cyril Ward, B.A., LL.B. Cantab., Samuel Warwick Warwick-Haller, M.A., LL.B. Cantab., Iorwerth John Watkins, Francis Arthur John Webb-Jones, Francis Edmund Webster, Leslie Hyam Weinberg, Harold Hyam Weingott, B.Sc. London, Claude Percy Wells, Lester Percival Whatley, B.A. Oxon, John Whitehurst, Edward Basil Wight, Charles Fisher Williams, B.A. Oxon, Ioan Penry Brychan Robertson Williams, John Bickerton Williams, LL.B. Birmingham, Andrew Arnold Williamson, B.A. Dublin, George Laurence Williamson, Reginald John Willis, Adolph Abraham Wolff, Geoffrey Beardall Wood, Richard Dallas Wood, LL.B. London, Arthur George Woods, B.A. Cantab., Maurice Yeatman.

No. of Candidates, 396. Passed, 228.

The Council have awarded the following Prize: To Mervyn John Hiam Harrison, who served his Articles of Clerkship with Mr. George Lewis Day, M.A., of the firm of Messrs. Day & Son, of St. Ives, Hunts, the John Mackrell Prize, value about £13.

Mr. Leigh Hunter Oakshott, solicitor, of Rock Ferry, Cheshire, a partner in Messrs. Duncan, Oakshott, Chevalier and Morris Jones, solicitors, of Liverpool, left property of the value of £66,209, with net personalty £65,620. He left £500 to the parish church council of St. Peter's, Rock Ferry.

Societies.

Incorporated Law Society of Liverpool.

ANNUAL GENERAL MEETING.

The 107th annual meeting of the Incorporated Law Society of Liverpool was held in the Society's Library, 10, Cook-street, on Thursday, 29th November, the President (Mr. William Glasgow) in the chair.

The meeting was largely attended, and amongst those present were the following officers and ex-presidents: Messrs. E. L. Billson, J. C. Bromfield, A. E. Chevalier, J. W. Cocks, R. D. Cripps, E. V. Crooks, F. C. Gregory, L. S. Holmes, J. G. Kenion, Sir Charles Morton, Messrs. G. A. Solly, P. N. Stone, W. A. Weightman and C. W. Wright.

The notice convening the meeting, together with the report of the committee, and the accounts having been taken as read, the President delivered his address.

The statement of accounts, he said, showed that the Society continued to be in a flourishing condition. They had now 434 members, which was a record number.

In the year which had passed since their last annual meeting many matters of interest to the profession had been dealt with and Acts and Rules had been passed and made in respect of some of them. The Council of The Law Society had prepared Rules under the Solicitors Act, 1933, and these were considered by their Society and other provincial law societies, and after various amendments had been made they were finally sent to the Master of the Rolls and were to come into force on the 1st January, 1935. It was, of course, important that every solicitor should study the Rules and make provision for the keeping of his accounts in accordance with them. He believed that most solicitors in Liverpool had been in the habit of keeping separate accounts of clients' moneys, and he did not imagine that much difficulty would be found in complying with the provisions of the Rules. Many solicitors had their accounts regularly examined by professional accountants, and their help would be useful in organising any alterations which might be required.

The next subject to which he referred was the question of solicitors' remuneration. In his presidential address at the provincial meeting of The Law Society, at Oxford, last year, Sir Reginald Poole had drawn attention to the provisions of the Solicitors' Remuneration Act, General Order, 1920, which authorised the delivery of a lump sum bill of costs, and he had suggested that the time within which, under that Order, delivery of a detailed bill might be called for, viz., twelve months, was unnecessarily long, and that this might fairly be reduced to six months, and, further, that the provision that a detailed bill might be required at any time up to one month after payment of the bill was inequitable, and he had promised to take steps with a view to obtaining an amendment of these provisions. He had carried out his promise and communicated with the Lord Chancellor, who had brought the matter before the Committee constituted by s. 56 of the Solicitors Act, 1932, which Committee was, under that section, to consist of the Lord Chancellor, the Lord Chief Justice, the Master of the Rolls, the President of The Law Society, and the President of a Provincial Law Society nominated by the Lord Chancellor. The Lord Chancellor nominated him (Mr. Glasgow) as President of their Society, to be a member of the Committee. That Committee held several meetings, and ultimately agreed upon the terms of an Order, which came into force on the 3rd June, 1934, under the title of "The Solicitors' Remuneration (Gross-sum) Order, 1934," by which the period of twelve months was reduced to six months, and this was to be the limit whether the bill had been paid or not. These, he thought, were satisfactory and desirable amendments.

In the report of their Committee for the past year was a reference to the Second Interim Report of the Business of Courts Committee and a note of the views arrived at by their Committee on recommendations contained in that Report. Certain recommendations had since become law and were embodied in the Administration of Justice (Appeals) Act, 1934, which received the Royal Assent on the 25th July last.

Section 1 of that Act provides that no appeal shall lie to the House of Lords from any order or judgment made or given by the Court of Appeal after the 1st October, 1934, except with the leave of that Court or of the House of Lords. This was a very fundamental change in judicial procedure and, he thought, a desirable one. The result would, no doubt, be that the number of appeals to the House of Lords would be materially reduced.

Section 2 of the Act provides that appeals from county courts are to be to the Court of Appeal instead of to the High Court. This was also a most desirable alteration.

For some time past the work of the King's Bench Division had been greatly in arrear. Recently two new judges had

been appointed, and the Lord Chancellor also intimated that a Bill would be presented to Parliament at an early date to authorise the appointment of two additional judges of the King's Bench Division.

The President then referred briefly to the provisions of the Law Reform (Miscellaneous Provisions) Act, 1934, in which certain of the suggestions of the Standing Committee appointed by the Lord Chancellor and presided over by the Master of the Rolls had been adopted. The Act had largely curtailed the operation of the legal maxim *actio personalis moritur cum persona* and made many actions maintainable which would previously not have been effective in consequence of the death of the person who had been guilty of, or who had suffered, a wrong.

The subject of "touting and undercutting," he said, during the year had received the special consideration of The Law Society, and they had expressed their views upon it in a memorandum which was published in the March issue of The Law Society's "Gazette." He did not desire to add to or to detract from those pronouncements. The subject was a difficult and thorny one. They were members of an honourable profession, of which one of the unwritten rules was that a solicitor was not to canvass for business. They all knew "in their bones" what was the right and fair course of conduct.

Dealing with the Solicitors Act, 1934, which prohibits, under penalty, bodies corporate from purporting to act as solicitors, he said they themselves were naturally and reasonably jealous of their rights and position, and they were anxious to see that those were not usurped by unqualified persons.

On the question of compulsory registration of title, the view of their Committee, and, he believed, of their Society as a whole, was that compulsory registration of title was not desirable, and that the law of transfer of property had best be left as it stands and that view had been arrived at in the best interests of those who were their clients and he hoped that it would prevail.

During the year the Associated Provincial Law Societies passed and submitted to the Council of The Law Society a resolution that the costs of attendance of a country solicitor at hearings of actions and appeals in London should be allowed on taxation as a matter of course, unless for some good cause the judge sees fit to order otherwise. The Council of The Law Society expressed the opinion that the question should remain a matter for the discretion of the taxing master, but that the discretion possibly might be exercised more liberally than it had been in the past. He believed that no change had in fact taken place and that the taxing masters still disallowed those costs almost as a matter of course. He felt that that was an injustice to the successful litigant, and he hoped that they might look for an alteration in the practice on the lines suggested by the Associated Provincial Law Societies.

The President then referred to the poor persons' procedure, and said that during his year he had been much impressed with the volume of work which was being done under this most happily devised system. The work of the Liverpool Committee was very considerable and involved the expenditure of much time and careful thought in considering the applications which came before them and determining on the facts of each case whether or not a certificate should be granted. He hoped that still more solicitors in their district would come forward and add their names to the list of those willing to serve in this honourable work.

During the year, he said, The Law Society had extensively revised their General Conditions of Sale, and as the Special Conditions of their Society incorporated (with certain modifications) The Law Society's General Conditions, it became necessary to consider those and to make appropriate revisions of their Conditions. This task was delegated to a Special Committee of the Conveyancing Sub-Committee, who conferred with counsel, and as a result they were able to settle new Conditions of their Society, which were printed and became available by the 31st July last.

Concluding his address, he said that he had been greatly impressed with the very real and earnest work of their Society in the interests of its members and the profession as a whole and with the high esteem in which the Liverpool Society was held by solicitors throughout the country. The considered views of their Society had great weight in the profession, and many reforms of value had had their origin there.

He expressed his thanks to each and all of those who had helped and supported him throughout the year.

It was moved by the President, seconded by the Vice-President, and resolved: "That the Report of the Committee, subject to any alterations or modifications which the officers may find necessary, together with the statement of accounts, be approved and adopted."

It was moved by Sir Charles Morton, seconded by Mr. J. C. Bromfield, and resolved: "That the thanks of the meeting be given to the President for his address, and that the same be printed and circulated as part of the Report."

It was moved by Mr. W. Jackson, seconded by Mr. W. E. Taylor, and resolved: "That the thanks of the Society be given to the officers and members of the Committee for their services during the past year."

There being only nine nominations for the nine vacancies on the Committee, the following gentlemen were elected for the ensuing term of three years: Messrs. W. L. Bateson, J. W. Cocks, S. R. Dodds, P. J. Hackett, D. H. Mace, J. B. McKaig, R. Marshall, Aneurin Rees and L. E. Rutherford.

The Solicitors' Managing Clerks' Association.

INSURANCE UNDER THE ROAD TRAFFIC ACTS.

Mr. Justice TALBOT took the chair at a meeting of this Association held in Middle Temple Hall on 30th November, and Mr. N. R. FOX-ANDREWS delivered a lecture entitled "Some Points on the Road Traffic Act." He proposed, he said, to confine himself to compulsory insurance under the Act of 1930, as modified by the Act of 1934. He predicted that many problems would arise for solution in the courts. Section 35 of the Act of 1930 laid down that it was unlawful to use a motor vehicle upon a public highway unless a policy was in force, such as was required by the Act. The required policy must cover the persons therein specified in respect of liability for death or bodily injury caused by their use of the vehicle on a road. The policy need not cover liability in respect of the assured's workmen in the course of their employment, or liability to persons getting on or off the vehicle, except where they were carried for hire or reward or in connection with a contract of employment. Section 38 provided, in departure from all precedent, that any condition in a policy providing that no liability should arise in some specified event should be of no effect. Section 36 (4) had often given rise to questions about its meaning and effect; it laid down that a person issuing a policy should be liable to indemnify the persons specified in it in respect of any liability which the policy purported to cover in respect of those persons. This section was presumably intended to deal with the problem that would arise in the absence of an insurable interest. Section 36 (5) made the delivery of a certificate of insurance compulsory.

One of the many interesting decisions that had already been given was in *Monk* v. *Warbey*, 51 T.L.R. 77, in which the court had laid down what it considered to be the policy of the Act. The defendant had lent his motor car to uninsured persons without taking out an insurance policy against third party risks while it was out of his control, and had been held liable to the plaintiff in damages. The whole purpose of the statute showed that it was intended to give a civil remedy for its breach, in addition to the penalty it imposed. Questions would probably also arise, Mr. Fox-Andrews thought, in connection with the exceptions relating to contracts of employment, for the section did not specify with whom the contract of employment was to be made—whether with the owner of the vehicle or any other person. If the phrase meant a contract of employment with any person, it severely restricted the application of the section. Thousands of people rode in vehicles every day by reason or in pursuance of a contract of employment, and it would appear not to be necessary to cover a risk in relation to one's own workman while he was on the vehicle.

SECURITY FOR JUDGMENT CREDITORS.

After considering problems that might arise out of the certificate of insurance, Mr. Fox-Andrews passed to the 1934 Act, which, he declared, was of the greatest importance. Its principle and policy were to secure that a person who was injured, and the relatives of a person who was killed, who made a claim which resulted in a judgment, should have far greater security in obtaining the fruits of that judgment. Accordingly, the Act materially restricted the power of insurers effectually to include in the policy provisions which would prevent liability attaching to them in respect of third party claims. It left the matter of contract between themselves and their assured untouched, but laid an extremely heavy burden upon insurance companies in its endeavour to ensure the greatest possible measure of certainty to the judgment creditor. It enacted in s. 12 that where a certificate of insurance had been delivered to the policy-holder, so much of the policy as purported to restrict the insurance by reference to certain matters should, as regards such liabilities as were required to be covered by the principal Act, be of no effect. The matters referred to were the age, physical or mental condition of persons driving the vehicle; the condition of the vehicle; the number of persons it carried; the weight or physical characteristics of the goods; the times at which it was used; its horse-power or value; and a number of others,

The insurer was, however, not required to pay any sum in respect of the liability of any person otherwise than in the discharge of that liability, and any such sum paid was recoverable from the person to whom it had been paid in discharge of any liability covered by the policy.

This provision went far beyond saying that an insurer was entitled to recover such sums from the assured. Its effect was that for the future the insurer, in relation to third-party claims, should not be entitled to rely on any breach of condition or warranty which related to any of the matters referred to. Most proposal forms were stated upon their face to be incorporated with and part of the policy, but if a proposal form were not so stated, the question might arise whether its conditions were merely warranties or representations in consideration of which the company entered into a contract of insurance. The section laid down that so much of the policy as purported to restrict the insurance should be of no effect, but if the company merely omitted any reference in the proposal form or in the policy to the incorporation of the form with the policy, it hardly seemed good law to say that the form was part of the contract of insurance. The insurer might be protected from the liability he would otherwise incur. Mr. Fox-Andrews considered that a misrepresentation of a fact material to the risk or concealment of such a fact would enable the company to have a good answer to a claim; nevertheless, a mere breach of warranty not amounting to non-disclosure or misrepresentation of a material fact would not be a sufficient answer.

Section 10 contained a very wide and sweeping provision: that if a certificate of insurance had been delivered to the policy-holder and judgment were obtained against any person insured by the policy, then notwithstanding that the insurer might be entitled to avoid or cancel the policy, he should pay to the persons entitled to the benefit of the judgment the amount of the judgment including the costs, and interest, if any. The insurer could, however, in certain circumstances avoid the obligation. Sub-section (2) laid down the notice which had to be given to him concerning the proceedings and provided that, if the policy had been cancelled before the accident, or if the certificate were surrendered or a statutory declaration made, after the accident but within fourteen days of cancellation becoming effective, and in certain other events, the insurer should not be liable to satisfy the judgment. He could also avoid payment if in an action commenced before or within three months after the commencement of the proceedings in which the judgment was given, he obtained a declaration that he was entitled to avoid the policy on the ground that it was obtained by misrepresentation or non-disclosure of a material fact. These provisions raised very difficult questions of fact and law, and enabled the insurer to avoid liability in many cases. Finally, Mr. Fox-Andrews stated that the new Act amended the criminal law so that if an accused person was found guilty of dangerous driving on an indictment for manslaughter, he could be sentenced to imprisonment for no less than two years.

A meeting will be held on Friday, 14th December, in the Inner Temple Hall (by kind permission of the Benchers), when Mr. F. J. Tucker, K.C., will deliver a lecture on "Some legal problems arising out of modern conditions." The chair will be taken at 7 o'clock precisely by The Hon. Mr. Justice Goddard. Meeting ends at 8 p.m.

Gray's Inn Debating Society.

The twentieth meeting of the year was held in Gray's Inn Common Room at 8.15 p.m., on Thursday, 22nd November, 1934, when the Annual Ex-Presidents' Debate took place, the President being in the chair. The motion for debate was: "That democracy is obsolete." The President having welcomed the ex-Presidents present, the motion was proposed by Master Malcolm Hilbery, K.C. (ex-President) and opposed by Mr. P. H. Gibbins, M.C. (ex-President). On the motion being thrown open to the house, Mr. T. R. Whittingham, Mr. J. W. J. Cremlyn (ex-President), Mrs. H. Carrington Wood (a guest), Mr. John Wood and Mr. W. G. Williams spoke in favour of the motion, and Mr. Thomas Terrell, Mr. A. F. Friters, Mr. Christopher Nixon, Capt. O. H. Cooke, M.C. (a guest), Mr. G. E. Rhodes, Mr. T. A. E. Spearing and Mr. H. Feist against it, after which the proposer replied. The motion was rejected by thirty-two votes to twenty-two, the number of members and guests present being sixty-three.

University of London Law Society.

A Roman Law Moot, arranged by the University of London Law Society, was held at Gower-street, on Thursday, 29th November. Professor Lee (Oxford University) and Professor Joloweieg (London University) presided.

Sempronius and Lentulus enter into a verbal agreement for the sale by Sempronius and the purchase by Lentulus of the Fundus Campanus. The principal terms of the agreement are the following:—(1) Price 5,000 aurei; (2) Arra 500 aurei; (3) A formal contract to be drawn up by a tabellio and executed by the parties. The *arra* is duly paid and the contract duly executed. Three days later, and before Sempronius has given *vacua possessio*, a gold mine is discovered on the estate; thereupon, Sempronius informs Lentulus that, circumstances having changed, he regrets that he cannot carry out the contract. Lentulus, who has made a contract with a firm of *redemptores* for the erection of an *insula* upon the property, holds Sempronius to his bargain. Sempronius tenders to Lentulus the sum of 1,000 aurei, this being the amount of the *arra* with as much again in lieu of damages for breaking the contract. The tender is refused. Lentulus brings an *actio empti*, claiming heavy damages. Sempronius pays 500 aurei into court and prays for absolution with costs

Counsel for Lentulus: Mr. M. V. O'C. Stranders, LL.B., Barrister-at-Law; Dr. Wolff. Counsel for Sempronius: Mr. A. Goodman, LL.B.; Mr. Davidson, LL.B.

The President (Mr. A. Goodman, LL.D.) was in the chair at the weekly meeting of the University of London Law Society last Tuesday, when there was a debate with the Social Problem Discussion Group, the subject being: "That the introduction of politics into a University is to be deplored." Proposing for affirmative, Mr. F. Brocker and Mr. Silver; proposing for negative, Mr. R. W. Barrett and Miss E. Romer.

Among those who spoke from the floor were: Messrs. Stranders, Kelly, Jacob, J. E. C. Wood, Rodgers, Goodman, K. Darashah, Wylie, and Flood. The motion was lost by nine votes to twenty.

The Hardwicke Society.

A meeting of the Society was held on Friday, 30th November, at 8.15 p.m., in the Middle Temple Common Room, the President (Mr. A. Newman Hall) in the chair. Mr. J. Yahuda moved: "That private enterprise is the cause of the degeneration of England." Mr. T. H. Mayers opposed. There also spoke: Mr. Menzies, Mr. Boyd Carpenter, Mr. Schofield, Mr. McKinnon, The hon. F. P. Howard, Mr. Wingate, and Mr. Llewellyn Thomas. The Hon. mover having replied, the House divided, and the motion was lost by two votes.

United Law Society.

A meeting of the United Law Society was held on the 3rd December in the Middle Temple Common Room. Mr. S. E. Redfern proposed "That this House approves of the Disaffection Bill." Mr. R. J. Kent opposed. Messrs. S. A. Redfern and G. B. Burke, Miss C. Colwill and Messrs. J. H. Vine Hall, H. S. Wood-Smith, H. Everett and O. T. Hill spoke, and Mr. S. E. Redfern replied. The House, being equally divided, the chairman gave his casting vote for the motion.

Union Society of London.

CENTENARY YEAR.

A meeting of the Society was held on Wednesday, the 5th December, at 8.15 p.m., in the Middle Temple Common Room, the President (Mr. Alun Llewellyn) being in the chair. Mr. Ryan proposed the motion "That this house regrets the exhibition of war photographs at Dorland House." Mr. Marvin opposed. There also spoke Mr. Ingram, Mr. Sandilands, Mr. Mountain, Mr. Newton, Mr. Frazer, Mr. Russell-Clarke, Mr. Duff, Mr. Moses, Mr. Hurle-Hobbes, and Mr. Morgan. The hon. proposer having replied, the House divided, and the motion was carried by one vote.

The Law Association.

The usual monthly meeting of the Directors was held at The Law Society's Hall, on Wednesday, the 5th December, Mr. H. Ross Giles in the chair. The other Directors present were Mr. E. Evelyn Barron, Mr. E. B. V. Christian, Mr. Guy H. Cholmeley, Mr. C. F. Pridham, Mr. Frank S. Pritchard, Mr. J. E. W. Rider, Mr. John Venning, Mr. Wm. Winterbotham, and the Secretary (Mr. Andrew H. Morton). A sum of £172 was voted in relief of deserving applicants, one new member was elected, and other general business transacted.

Law Students' Debating Society.

At a meeting of the Society, held at The Law Society's Court Room, on Tuesday, 27th November (Chairman, Miss U. A. Hastie), the subject for debate was: "That the

present system of popular representation in Parliament should be replaced by a system based on the occupation or status of the elector." Mr. P. H. North-Lewis opened in the affirmative; Mr. H. J. Baxter opened in the negative. The following also spoke: Messrs. R. J. A. Temple, R. Langley Mitchell, H. F. C. Morgan, R. W. Jackling, G. Abrahams, L. J. Frost, J. E. Terry, M. C. Batten, R. Morgan, and Miss H. M. Cross. The opener having replied, the motion was lost by four votes.

Legal Notes and News.

Honours and Appointments.

Mr. Bernard Campion, K.C., has been elected Treasurer of Gray's Inn, for the year 1935, in succession to Mr. G. D. Keogh, who has been elected Vice-Treasurer for the same period.

The following officers of the Honourable Society of Lincoln's Inn have been elected for the year beginning 11th January, 1935: Sir Felix Cassel, K.C., Treasurer; Lord Russell of Killowen, Master of the Library; Mr. Justice Clauson, Dean of the Chapel; Mr. Justice Macnaghten, Keeper of the Black Book; Mr. Francis Henry Launcelot Errington, Master of the Walks.

Mr. H. R. Wormald, Assistant Solicitor, Leeds, has been appointed Deputy Town Clerk of West Hartlepool. Mr. Wormald was admitted a solicitor in 1930.

HOUSING AND TOWN AND COUNTRY PLANNING.

In view of the general importance of housing and town and country planning, not only to local authorities and their officials, but to the wider public interested, the part of the Annual Report of the Ministry of Health for 1933–34, which deals with these subjects, has been published separately.

A brief summary is given of present housing policy, which is directed to the increase of the supply of houses and the elimination of the slums and the proper re-housing of their inhabitants, and reference is made to plans for dealing with overcrowding. Particulars are given of the number of houses inspected and of the number made fit. A section of the report deals with the provision of new houses.

The report contains a statement of the planning schemes throughout the country and of the progress of regional planning. Notes of decisions on appeals relating to proposed building or other development are also included, together with suggestions as to how local authorities may prevent bad and encourage good development.

Copies of the publication may be purchased, price 1s., from H.M. Stationery Office, or through any bookseller.

Court Papers.

Supreme Court of Judicature.

Rota of Registrars in Attendance on

Date.	Emergency Rota.	Appeal Court No. 1.	Group I. Mr. Justice Eve. Witness. Part I.	Mr. Justice Bennett. Witness. Part II.
	Mr.	Mr.	Mr.	Mr.
Dec. 10	More	Jones	*Hicks Beach	Jones
„ 11	Hicks Beach	Ritchie	*Blaker	*Hicks Beach
„ 12	Andrews	Blaker	*Jones	Blaker
„ 13	Jones	More	Hicks Beach	*Jones
„ 14	Ritchie	Hicks Beach	*Blaker	Hicks Beach
„ 15	Blaker	Andrews	Jones	Blaker

	Group I. Mr. Justice Crossman. Non-Witness.	Mr. Justice Clauson. Non-Witness.	Group II. Mr. Justice Luxmoore. Witness. Part II.	Mr. Justice Farwell. Witness. Part I.
	Mr.	Mr.	Mr.	Mr.
Dec. 10	Blaker	Andrews	*More	*Ritchie
„ 11	Jones	More	Ritchie	*Andrews
„ 12	Hicks Beach	Ritchie	*Andrews	*More
„ 13	Blaker	Andrews	More	*Ritchie
„ 14	Jones	More	*Ritchie	Andrews
„ 15	Hicks Beach	Ritchie	Andrews	More

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 20th December, 1934.

	Div. Months.	Middle Price 5 Dec. 1934.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	117⅛	3 8 1	2 18 2
Consols 2½%	JAJO	88½xd	2 16 6	—
War Loan 3½% 1952 or after	JD	106⅛	3 5 9	3 0 6
Funding 4% Loan 1960-90	MN	118½	3 7 6	2 18 10
Funding 3% Loan 1959-69	AO	103¼	2 18 1	2 16 4
Victory 4% Loan Av. life 29 years	MS	116⅝	3 8 6	3 2 3
Conversion 5% Loan 1944-64	MN	123½	4 1 0	2 1 9
Conversion 4½% Loan 1940-44	JJ	112½	4 0 0	2 4 9
Conversion 3½% Loan 1961 or after	AO	108⅝	3 4 4	3 0 2
Conversion 3% Loan 1948-53	MS	104¼	2 17 6	2 12 3
Conversion 2½% Loan 1944-49	AO	100½	2 9 9	2 8 10
Local Loans 3% Stock 1912 or after	JAJO	95¼xd	3 3 0	—
Bank Stock	AO	379½	3 3 3	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	91½xd	3 0 1	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	95xd	3 3 2	—
India 4½% 1950-55	MN	113	3 19 8	3 7 8
India 3½% 1931 or after	JAJO	96xd	3 12 11	—
India 3% 1948 or after	JAJO	88xd	3 8 2	—
Sudan 4½% 1939-73 Av. life 27 years	FA	125	3 12 0	3 2 5
Sudan 4% 1974 Red. in part after 1950	MN	116	3 9 0	2 15 0
Tanganyika 4% Guaranteed 1951-71	FA	116	3 9 0	2 15 0
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	102	2 18 10	2 16 0
L.P.T.B.4½% "T.F.A." Stock 1942-72	JJ	111½xd	4 0 9	2 13 7
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	109xd	3 13 5	3 7 10
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	103	3 12 10	3 9 5
Canada 4% 1953-58	MS	112	3 11 5	3 3 0
*Natal 3% 1929-49	JJ	100xd	3 0 0	3 0 0
*New South Wales 3½% 1930-50	JJ	100xd	3 10 0	3 10 0
*New Zealand 3% 1945	AO	100	3 0 0	3 0 0
Nigeria 4% 1963	AO	112	3 11 5	3 7 0
Queensland 3½% 1950-70	JJ	100xd	3 10 0	3 10 0
South Africa 3½% 1953-73	JD	107	3 5 5	2 19 10
*Victoria 3½% 1929-49	AO	101	3 9 4	—
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	96xd	3 2 6	—
*Croydon 3% 1940-60	AO	100	3 0 0	3 0 0
Essex County 3½% 1952-72	JD	105xd	3 6 8	3 2 8
*Hull 3½% 1925-55	FA	102	3 8 8	—
Leeds 3% 1927 or after	JJ	97	3 1 10	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	107xd	3 5 5	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	88½	2 16 6	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	96	3 2 6	—
Manchester 3% 1941 or after	FA	98	3 1 3	—
*Metropolitan Consd. 2½% 1920-49	MJSD	100	2 10 0	2 10 0
Metropolitan Water Board 3% "A" 1963-2003	AO	97	3 1 10	3 2 1
Do. do. 3% "B" 1934-2003	MS	98	3 1 3	3 1 5
Do. do. 3% "E" 1953-73	JJ	102	2 18 10	2 17 2
Middlesex County Council 4% 1952-72	MN	113	3 10 10	3 1 0
† Do. do. 4½% 1950-70	MN	116	3 17 7	3 4 1
Nottingham 3% Irredeemable	MN	97	3 1 10	—
Sheffield Corp. 3½% 1968	JJ	107	3 5 5	3 3 1
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	116	3 9 0	—
Gt. Western Rly. 4½% Debenture	JJ	126½	3 11 2	—
Gt. Western Rly. 5% Debenture	JJ	133½	3 14 11	—
Gt. Western Rly. 5% Rent Charge	FA	132½	3 15 6	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	130⅓	3 16 8	—
Gt. Western Rly. 5% Preference	MA	115½	4 6 7	—
Southern Rly. 4% Debenture	JJ	113½xd	3 10 6	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	111¼xd	3 11 9	3 7 3
Southern Rly. 5% Guaranteed	MA	131½	3 16 1	—
Southern Rly. 5% Preference	MA	116	4 6 2	—

*Not available to Trustees over par. † Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

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PERIODICAL SALE No. 1,223. REVERSIONS, POLICIES, &c.

CONTINGENT REVERSION, lives 67, 59 and 57, to about £2,500, with covering Insurance.—Solicitors, Messrs. Lawrence, Graham & Co., 6, New-square, Lincoln's Inn, W.C.2.

ABSOLUTE REVERSION, life 72, to 1-6 of about £12,000.—Solicitors, Messrs. Herbert Oppenheimer, Nathan and Vandyk, 1, Finsbury-square, E.C.2.

ABSOLUTE REVERSION on decease of life 63, to about £2,850.—Solicitors, Messrs. White & Leonard, Bank-buildings, Ludgate-circus, E.C.4.

ABSOLUTE REVERSION on decease of life 62, to about £1,175.—Solicitors, Messrs. A. E. Hamlin, Brown and Co., 12, Soho-square, W.1.

ABSOLUTE REVERSION to £2,750 on decease of life 70.—Solicitors, Messrs. Long & Gardiner, 8, Lincoln's Inn-fields, W.C.2.

REVERSION on decease of life 66, provided Reversioner survive, to £530, with covering Policy.—Solicitors, Messrs. Elvy Robb & Co., 19, Bedford-row, W.C.2.

REVERSION on decease of life 65, provided Reversioner survive, to one-fifth of £4,660 War Loan and Leasehold Property.—Solicitors, Messrs. W. J. & J. G. Taylor, Cardigan Lodge, Newmarket.

PROFIT RENTAL of £120 p.a. arising out of property at Holland-park, W.—Solicitors, Messrs. Roche, Son and Neale, 1, Church-court, Old Jewry, E.C.2.

ABSOLUTE REVERSION, life 73, to about £3,100.—Solicitors, Messrs. Murton, Clarke & Murton-Neale, Cranbrook, Kent.

ABSOLUTE REVERSION, life 81, to one-sixth of properties at Blackburn, estimated at £3,270.—Solicitors, Messrs. Whitelock & Storr, 8, Bloomsbury-square, W.C.1.

POLICIES OF ASSURANCE.

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